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Presidential Documents

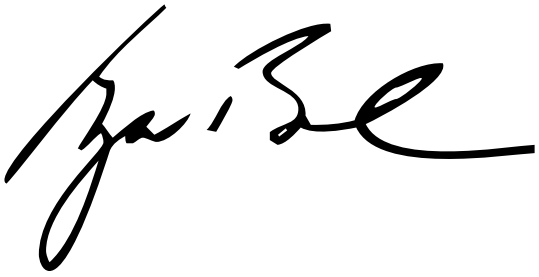
Title 3—

The President

Notice of October 16, 2001

Continuation of Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

On October 21, 1995, by Executive Order 12978, the President declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of significant narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm such actions cause in the United States and abroad. The order blocks all property and interests in property that are in the United States or within the possession or control of United States persons or foreign persons listed in an annex to the order, as well as of foreign persons determined to play a significant role in international narcotics trafficking centered in Colombia. The order similarly blocks all property and interests in property of foreign persons determined to materially assist in, or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the order, or persons determined to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the order. The order also prohibits any transaction or dealing by United States persons or within the United States in such property or interests in property. Because the actions of significant narcotics traffickers centered in Colombia continue to threaten the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad, the national emergency declared on October 21, 1995, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond October 21, 2001. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency for 1 year with respect to significant narcotics traffickers centered in Colombia. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
October 16, 2001.

[FR Doc. 01–26536
Filed 10–18–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–00–23]

Tobacco Inspection; Growers' Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the merger of Fairmont-Fair Bluff, North Carolina and Loris, South Carolina, to become the consolidated market of Fairmont-Fair Bluff-Loris. A mail referendum was conducted during the period of June 4–8, 2001, among tobacco growers who sold tobacco on these markets in 2000 to determine producer approval/disapproval of the designation of these markets as one consolidated market. Therefore, for the 2001 and succeeding flue-cured marketing seasons, the Fairmont-Fair Bluff, North Carolina and Loris, South Carolina, tobacco markets shall be designated as Fairmont-Fair Bluff-Loris. The regulations are amended to reflect this new designated market.

EFFECTIVE DATE: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: William O. Coats, Associate Deputy Administrator, Tobacco Programs, Agricultural Marketing Service, United States Department of Agriculture, Stop 0280, 1400 Independence Avenue, SW., Washington, DC 20250–0280; telephone number (202) 205–0508.

SUPPLEMENTARY INFORMATION: A notice was published in the May 2, 2001, issue of the **Federal Register** (66 FR 21888) announcing that a referendum would be conducted among active flue-cured producers who sold tobacco on either Fairmont-Fair Bluff or Loris during the 2000 season to ascertain if such producers favored the consolidation.

The notice of referendum announced the determination by the Secretary that the consolidated market of Fairmont-Fair Bluff and Loris, would be designated as a flue-cured tobacco auction market and receive mandatory Federal grading of tobacco sold at auction for the 2001 and succeeding seasons, subject to the results of the referendum. The determination was based on the evidence and arguments presented at a public hearing held in, Tabor City, North Carolina, on November 9, 2000, pursuant to applicable provisions of the regulations issued under the Tobacco Inspection Act, as amended. The referendum was held in accordance with the provisions of the Tobacco Inspection Act, as amended (7 U.S.C. 511d) and the regulations set forth in 7 CFR 29.74.

Ballots for the June 4–8, 2001, referendum were mailed to 935 producers. Approval required votes in favor of the proposal by two-thirds of the eligible voters who cast valid ballots. The Department received a total of 213 responses: 168 eligible producers voted in favor of the consolidation; 16 eligible producers voted against the consolidation; and 29 ballots were determined to be invalid.

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

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

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of ''small business'' which are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less that $500,000, and small agricultural service firms are defined as those whose annual receipts are less that $3,500,000. There are approximately 190 tobacco warehouses and approximately 30,000 producers. This action will not substantially affect the normal movement of the commodity in the marketplace. It has been determined that this action will not have a significant impact on a substantial number of small entities.

It is hereby found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2001 flue-cured marketing season will begin about July 24 and this action is needed as soon as possible to establish the sales schedule for the season.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping procedures, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

Subpart D—Order of Designation of Tobacco Markets

1. The authority citation for 7 CFR part 29, Subpart D, continues to read as follows:

Authority: Sec. 5, 49 Stat, 732, as amended, by Sec. 157(a)(1), 95 Stat. 374 (7 U.S.C. 511d).

2. In § 29.8001, the table is amended by adding a new entry (qqq) to read as follows:

§ 29.8001 Designation of tobacco markets.

* * * * *

DESIGNATED TOBACCO MARKETS

Territory	Types of tobacco	Auction markets	Order of designation	Citation
* *	*	*	*	*
(qqq) North Carolina, South Carolina.	Flue-Cured	Fairmont-Fair Bluff-Loris	October 22, 2001	66 FR 53076.

Dated: October 12, 2001.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 01–26393 Filed 10–18–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Forage Seeding Crop Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulation which was published Wednesday, August 15, 2001 (66 FR 42729–42730). The regulation pertains to the Forage Seeding Crop Provisions for 2003 and subsequent crop years.

EFFECTIVE DATE: This rule is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Arden Routh, Insurance Management Specialist, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 6501 Beacon Drive, Kansas City, MO, 64133, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction was to provide policy changes to better meet the needs of the insured.

Need for Correction

As published, the final regulations contained an error which may prove to be misleading and is in need of correcting. The final rule for the Forage Seeding Crop Provisions did not contain language in section 13(b) that ''Acreage that is harvested and not reseeded,'' will be included as acreage with an established stand.

Correction of Publication

Accordingly, the publication on August 15, 2001, of the final regulation at 66 FR 42729–42730 is corrected as follows:

PART 457—[CORRECTED]

§ 457.151 [Corrected]

On page 42730, in the third column in § 457.151, the crop provisions section 13(b) is corrected to read as follows:

* * * * *

(b) The acres with an established stand will include:

(1) Acreage that has at least 75 percent of a normal stand;

(2) Acreage abandoned or put to another use without our prior written consent;

(3) Acreage damaged solely by an uninsured cause; or

(4) Acreage that is harvested and not reseeded.

* * * * *

Signed in Washington, DC, on October 15, 2001.

Phyllis W. Honor,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 01–26396 Filed 10–18–01; 8:45 am]

BILLING CODE 3410–08–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–1113]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation D, Reserve Requirements of Depository Institutions, to reflect the annual indexing of the low reserve tranche and the reserve requirement exemption for 2002, and announces the annual indexing of the deposit reporting cutoff level that will be effective beginning in September 2002. The amendments decrease the amount of transaction accounts subject to a reserve requirement ratio of three percent in 2002, as required by section 19(b)(2)(C) of the Federal Reserve Act, from $42.8 million to $41.3 million of net transaction accounts. This adjustment is known as the low reserve tranche adjustment. The Board is increasing from $5.5 million to $5.7 million the amount of reservable liabilities of each depository institution that is subject to a reserve requirement of zero percent in 2002. This action is required by section 19(b)(11)(B) of the Federal Reserve Act, and the adjustment is known as the reservable liabilities exemption adjustment. The Board is also increasing the deposit cutoff level that is used in conjunction with the reservable liabilities exemption to determine the frequency of deposit reporting from $101.0 million to $106.9 million for nonexempt depository institutions. (Nonexempt institutions are those with total reservable liabilities exceeding the amount exempted from reserve requirements.) Thus, beginning in September 2002, nonexempt institutions with total deposits of $106.9 million or more will be required to report weekly while nonexempt institutions with total deposits less than $106.9 million may report quarterly, in both cases on form FR 2900. Exempt institutions with at least $5.7 million in total deposits may report annually on form FR 2910a.

DATES: *Effective date:* November 19, 2001.

Compliance dates: For depository institutions that report weekly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, November 27, 2001, and the corresponding reserve maintenance period that begins Thursday, December 27, 2001. For institutions that report quarterly, the low reserve tranche adjustment and the reservable liabilities exemption adjustment will apply to the reserve computation period that begins Tuesday, December 18, 2001, and the corresponding reserve maintenance period that begins Thursday, January 17, 2002. For all depository institutions, the deposit cutoff level will be used to screen institutions in the second quarter of 2002 to determine the reporting frequency for the twelve month period that begins in September 2002.

FOR FURTHER INFORMATION CONTACT: Heatherun Allison, Counsel (202/452–3565), Legal Division, or June O'Brien, Economist (202/452–3790), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, please call 202/263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) requires each depository institution to maintain reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations. The required reserve ratio applicable to transaction account balances exceeding the low reserve tranche is 10 percent. Section 19(b)(2) also provides that, before December 31 of each year, the Board shall issue a regulation adjusting the low reserve tranche for the next calendar year. The adjustment in the tranche is to be 80 percent of the percentage increase or decrease in net transaction accounts at all depository institutions over the one-year period that ends on the June 30 prior to the adjustment.

Currently, the low reserve tranche on net transaction accounts is $42.8 million. Net transaction accounts of all depository institutions decreased by 4.3 percent (from $619.3 billion to $592.8 billion) from June 30, 2000, to June 30, 2001. In accordance with section 19(b)(2), the Board is amending Regulation D (12 CFR part 204) to decrease the low reserve tranche for transaction accounts for 2002 by $1.5 million to $41.3 million.

Section 19(b)(11)(B) of the Federal Reserve Act provides that, before December 31 of each year, the Board shall issue a regulation adjusting for the next calendar year the dollar amount of reservable liabilities exempt from reserve requirements. Unlike the adjustment for the low reserve tranche on net transaction accounts, which adjustment can result in a decrease as well as an increase, the change in the exemption amount is to be made only if the total reservable liabilities held at all depository institutions increase from one year to the next. The percentage increase in the exemption is to be 80 percent of the increase in total reservable liabilities of all depository institutions as of the year ending June 30. Total reservable liabilities of all depository institutions increased by 5.1 percent (from $2,200.0 billion to $2,313.1 billion) from June 30, 2000, to June 30, 2001. Consequently, the reservable liabilities exemption amount for 2002 under section 19(b)(11)(B) will be increased by $0.2 million from $5.5 million to $5.7 million.[1]

The effect of the application of section 19(b) of the Federal Reserve Act to the change in the total net transaction accounts and the change in the total reservable liabilities from June 30, 2000, to June 30, 2001, is to decrease the low reserve tranche to $41.3 million, to apply a zero percent reserve requirement on the first $5.7 million of net transaction accounts, and to apply a three percent reserve requirement on the remainder of the low reserve tranche.

For institutions that report weekly, the tranche adjustment and the reservable liabilities exemption adjustment will be effective for the fourteen-day reserve computation period beginning Tuesday, November 27, 2001, and for the corresponding fourteen-day reserve maintenance period beginning Thursday, December 27, 2001. For institutions that report quarterly, the tranche adjustment and the reservable liabilities exemption adjustment will be effective for the seven-day computation period beginning Tuesday, December 18, 2001, and for the corresponding seven-day reserve maintenance period beginning Thursday, January 17, 2002.

In order to reduce the reporting burden for small institutions, the Board has established deposit reporting cutoff levels to determine deposit reporting frequency. In July 2000, the Board specified that the annual percentage increase in the nonexempt deposit cutoff be set equal to 80 percent of the growth rate of total deposits at all depository institutions over the one-year period ending on the most recent June 30.

From June 30, 2000, to June 30, 2001, total deposits increased 7.3 percent, from $5,216.0 billion to $5,596.6 billion. Accordingly, the nonexempt deposit cutoff level will increase by $5.9 million from $101.0 million in 2001 to $106.9 million in 2002. Based on the indexation of the reservable liabilities exemption, the cutoff level for total deposits above which reports of deposits must be filed will rise from $5.5 million to $5.7 million. Under the deposit reporting system, institutions are screened during each year to determine their reporting category beginning in the September of that year. Hence, the cutoff level would be used in the 2002 deposit report screening process and new deposit reporting panels will be implemented in September 2002.

Thus, effective in September 2002, all U.S. branches and agencies of foreign banks and Edge and agreement corporations, regardless of size, and other institutions with total reservable liabilities exceeding $5.7 million (nonexempt institutions) and with total deposits at or above $106.9 million would be required to file weekly the Report of Transaction Accounts, Other Deposits and Vault Cash (form FR 2900). Nonexempt institutions with total deposits below $106.9 million could file the FR 2900 quarterly. Institutions that obtain funds from non-U.S. sources or that have foreign branches or IBFs would continue to be required to file the Report of Certain Eurocurrency Transactions (forms FR 2950/FR 2951) at the same frequency as they file the form FR 2900. Institutions with reservable liabilities at or below the exemption amount of $5.7 million (exempt institutions) and with at least $5.7 million in total deposits would be required to file the Annual Report of Total Deposits and Reservable Liabilities (form FR 2910a). Institutions with total deposits below the exemption level of $5.7 million would be excused from reporting if their deposits can be estimated from other data sources.

Finally, the Board may require a depository institution to report on a weekly basis, regardless of the cutoff level, if the institution manipulates its total deposits and other reservable liabilities in order to qualify for quarterly reporting. Similarly, any depository institution that reports quarterly may be required to report weekly and to maintain appropriate reserve balances with its Reserve Bank if, during its computation period, it understates its usual reservable liabilities or overstates the deductions allowed in computing required reserve balances.

Notice. The provisions of 5 U.S.C. 553(b) relating to notice of proposed rulemaking have not been followed in connection with the adoption of these amendments. The amendments involve expected, ministerial adjustments prescribed by statute and by the Board's policy concerning reporting practices. In addition, the reservable liabilities exemption adjustment and the increases for reporting purposes in the deposit cutoff levels reduce regulatory burdens on depository institutions, and the low reserve tranche adjustment will have a *de minimis* effect on depository institutions with net transaction accounts exceeding $41.3 million. Accordingly, the Board finds good cause for determining, and so determines, that

[1] Consistent with Board practice, the tranche and exemption amounts have been rounded to the nearest $0.1 million.

notice in accordance with 12 U.S.C. 552(b) is unnecessary.

Regulatory Flexibility Analysis

The Board certifies that these amendments will not have a substantial economic impact on small depository institutions.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. Section 204.9 is revised to read as follows:

§ 204.9 Reserve requirement ratios.

(a) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement [1]
Net transaction accounts:	
$0 to $41.3 million	3 percent of amount.
Over $41.3 million	$1,239,000 plus 10 percent of amount over $41.3 million.
Nonpersonal time deposits	0 percent.
Eurocurrency liabilities	0 percent.

[1] Before deducting the adjustment to be made by the paragraph (b) of this section.

(b) *Exemption from reserve requirements.* Each depository institution, Edge or agreement corporation, and U.S. branch or agency of a foreign bank is subject to a zero percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a) of this section not in excess of $5.7 million determined in accordance with § 204.3(a)(3).

By order of the Board of Governors of the Federal Reserve System, October 12, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–26197 Filed 10–18–01; 8:45 am]

BILLING CODE 6210–01–P

EMERGENCY STEEL GUARANTEE LOAN BOARD

13 CFR Part 400

RIN 3003–ZA00

Emergency Steel Guarantee Loan Program; Third-party Enhancement of Guarantees; Refinancing and Transfer Restrictions

AGENCY: Emergency Steel Guarantee Loan Board.

ACTION: Final rule.

SUMMARY: The Emergency Steel Guarantee Loan Board (Board) is amending the regulations governing the Emergency Steel Guarantee Loan Program (Program). These changes are meant to provide for supplemental guarantees by third parties and to change restrictions on refinancing existing credit and on loan guarantee transfers by Lenders. The intent of these changes is to increase participation in the Program by lenders.

DATES: This rule is effective October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Marguerite S. Owen, General Counsel, Emergency Steel Guarantee Loan Board, 1099—14th Street, NW., Suite 2600 East, Washington, DC 20005, (202) 219–0584.

SUPPLEMENTARY INFORMATION: On October 27, 1999, the Board published a final rule codifying at Chapter 4, Title 13, Code of Federal Regulations (CFR), regulations implementing the Program, as established in Chapter 1 of Public Law 106–51, the Emergency Steel Loan Guarantee Act of 1999 (64 FR 57932). Since those initial regulations were published the Board has made a number of changes to the regulations meant to conform the regulations to the Guarantee Agreement between the government and the lender, to allow for participations in unguaranteed tranches of loans guaranteed under the Program, to harmonize certain program requirements with commercial lending practices, streamline program operation, open a second period for the submission of applications and allow for certain delegations of authority. Today the Board is making additional changes designed to align Program administration with legal requirements and to increase participation by lenders in the Program. Section 400.106 is being revised to reflect the fact that the Program's evaluation process is no longer competitive and hence the concept of ex parte communications is no longer applicable. As revised, the rule prohibits only communications not on the public record between a member of the Board and an interested party, in order to avoid a situation where one member of the Board receives or conveys information concerning a pending application that is not available to other members of the Board. Section 400.205 is being modified to reflect that the Board has extended the deadline for applications from April 2, 2001 to August 31, 2001. With respect to increasing lender participation, a new § 400.215 is added to allow for supplemental guarantees by third parties, including state and local governments and related provisions are being modified to reflect that change. Section 400.210 is being modified to allow for transfers of interests in guaranteed loans to Eligible Lenders without prior Board approval. Section 400.201 is being amended to allow refinancing of the applicant lender's existing credit if the applicant's risk exposure is at least substantially equivalent.

Public Law 106–51 has a requirement that the Board take into account the prospective earning power of the Borrower together with the nature and character of the security pledged in making a determination that there is a reasonable assurance of repayment of the loan sought to be guaranteed. The Program's regulations, at § 400.207, currently describe the Board's assessment of the nature and character of the security pledged for a loan, but do not address the Board's review of the prospective earning power of the Borrower. However, in compliance with the law, the Board has always evaluated the Borrower's prospective earning power in making a determination whether there is a reasonable assurance of repayment of the loan sought to be guaranteed. This rule will amend the Board's regulations to make clear that the Board does assess a Borrower's prospective earning power in making such a determination. In particular, the

rule makes clear that an essential and necessary criterion of the Board's evaluation of the application will be the commitment of the Borrower to undertake steps to eliminate or reduce economically unviable capacity.

On June 5, 2001, President Bush announced a three-pronged steel initiative aimed at addressing the current problems of the U.S. steel industry, eliminating inefficient excess capacity globally and restoring market forces to world steel trade. A key component of this initiative is the restructuring and rationalization of the steel industry, both at home and abroad, with a particular focus on reducing or eliminating economically unviable steelmaking capacity. The Board's evaluation of the prospective earning power of a Borrower is in compliance with the President's initiative and seeks to further its goals by reviewing restructuring efforts aimed at the reduction or elimination of economically unviable capacity in making a determination whether to approve a Loan Guarantee.

Administrative Law Requirements

Executive Order 12866

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

Administrative Procedure Act

This rule is exempt from the rulemaking requirements contained in 5 U.S.C. 553 pursuant to authority contained in 5 U.S.C. 553(a)(2) as it involves a matter relating to loans. As such, prior notice and an opportunity for public comment and a delay in effective date otherwise required under 5 U.S.C. 553 are inapplicable to this rule.

Regulatory Flexibility Act

Because this rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Congressional Review Act

This rule has been determined to be not major for purposes of the Congressional Review Act, 5 U.S.C. 801 *et seq.*

Intergovernmental Review

No intergovernmental consultations with State and local officials are required because the rule is not subject to the provisions of Executive Order 12372 or Executive Order 12875.

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates, as that term is defined in the Unfunded Mandates Reform Act, on State, local and tribal governments or the private sector.

Executive Order 13132

This rule does not contain policies having federalism implications requiring preparation of a Federalism Summary Impact Statement.

Executive Order 12630

This rule does not contain policies that have takings implications.

List of Subjects in 13 CFR Part 400

Administrative practice and procedure, Loan programs-steel, Reporting and recordkeeping requirements.

Dated: October 15, 2001.

Daniel J. Rooney,

Executive Secretary, Emergency Steel Guarantee Loan Board.

For the reasons set forth in the preamble, 13 CFR part 400 is amended as follows:

PART 400—EMERGENCY STEEL GUARANTEE LOAN PROGRAM

1. The authority citation of part 400 continues to read as follows:

Authority: Pub. L. 106–51, 113 Stat. 252 (15 U.S.C. 1841 note); Pub. L. 106–102, 113 Stat. 1338.

1a. Section 400.2 is amended by redesignating paragraphs (h) through (l) as paragraphs (i) through (m), adding new paragraphs (h), (n) and (o), and revising paragraph (a) and newly redesignated paragraphs (j) and (l), to read as follows:

§ 400.2 Definitions.

(a) *Act* means the Emergency Steel Loan Guarantee Act of 1999, Chapter 1 of Public Law 106–51 (113 Stat. 252), as amended.

* * * * *

(h) *Guaranteed Portion* means the portion of the principal of a loan that is subject to the Guarantee.

* * * * *

(j) *Loan Documents* mean the loan agreement and all other instruments, and all documentation between the Lender and the Borrower evidencing the making, disbursing, securing, collecting, or otherwise administering of the loan. It includes any agreement and other documents relating to a Supplemental Guarantee. Loan Documents may not be modified without the prior written approval of the Board.

* * * * *

(l) *Security* means all property, real or personal, required by the provisions of the Guarantee or by the Loan Documents to secure repayment of any indebtedness of the Borrower under the Loan Documents or Guarantee. It does not include a Supplemental Guarantee.

* * * * *

(n) *Supplemental Guarantee* means a guarantee provided by one or more third parties, public or private, of part of the Unguaranteed Portion of a guaranteed loan.

(o) *Unguaranteed Portion* means the portion of the principal of a loan that is not covered by the Guarantee.

2. Section 400.106 is revised to read as follows:

§ 400.106 Ex parte communications.

Oral or written communication, not on the public record, between any member of the Board and any party or parties interested in any matter pending before the Board concerning the substance of that matter is prohibited.

3. Section 400.201 is amended by revising paragraphs (c) and (d) to read as follows:

§ 400.201 Eligible Lender.

* * * * *

(c) Status as a Lender under paragraph (a) of this section does not assure that the Board will issue the Guarantee sought, or otherwise preclude the Board from declining to issue a Guarantee. In addition to evaluating an application pursuant to § 400.207, in making a determination to issue a Guarantee to a Lender, the Board will assess:

(1) The Agent Lender's level of regulatory capital, in the case of banking institutions, or net worth, in the case of investment institutions;

(2) Whether the Agent Lender possesses the ability to administer the loan, as required by § 400.211(b), including its experience with loans to steel companies;

(3) The scope, volume and duration of the Agent Lender's activity in administering loans;

(4) The performance of the Agent Lender's loan portfolio, including its current delinquency rate;

(5) The Agent Lender's loss rate as a percentage of loan amounts for its current fiscal year; and

(6) Any other matter the Board deems material to its assessment of the Agent Lender.

(d) A proposed loan for the purpose, in whole or in part, of refinancing existing credit provided by the Agent will not be approved unless the Board is satisfied that the Agent retains at least a substantially equivalent level of risk as a result of the refinancing.

4. Section 400.203 is revised to read as follows:

§ 400.203 Guarantee percentage.

A guarantee issued by the Board may not exceed 85 percent of the amount of the principal of a loan to a Qualified Steel Company. Subject to the provisions of this part, one or more third parties, public or private, may guarantee repayment of part of the Unguaranteed Portion of a loan guaranteed by the Board.

5. Section 400.204 is amended by revising paragraphs (c)(2)(i) and (c)(3) to read as follows:

§ 400.204 Loan terms.

* * * * *

(c) * * *

(2) * * *

(i) A fully perfected and enforceable security interest and/or lien, with first priority over conflicting security interests or other liens in all property acquired, improved or derived from the loan funds;

* * * * *

(3) The entire loan will be secured by the same Security with equal lien priority for the Guaranteed Portion and the Unguaranteed Portion of the loan. The Unguaranteed Portion of the loan will neither be paid first nor given any preference over the Guaranteed Portion. A Supplemental Guarantor shall not have a security interest, direct or indirect, in any asset of the Borrower or any affiliate thereof other than the Security.

* * * * *

6. Section 400.205 is amended by revising paragraph (a), by removing ''and'' at the end of paragraph (b)(10), by removing the period at the end of paragraph (b)(11) and adding ''; and'' in its place, and by adding a new paragraph (b)(12) to read as follows:

§ 400.205 Application process.

(a) *Application process.* An original application and three copies must be received by the Board no later than 5 p.m. EST, August 31, 2001 in the Board's offices at 1099—14th Street, NW, Suite 2600 East, Washington, DC 20005. Applications which have been provided to a delivery service with ''delivery guaranteed'' before 5 p.m. on August 31, 2001 will be accepted for review if the Applicant can document that the application was provided to the delivery service with delivery to the address listed in this section guaranteed prior to the closing date and time. A postmark is not sufficient to meet this deadline as the application must be received by the required date and time. Applications will not be accepted via facsimile machine transmission or electronic mail.

(b) * * *

(12) A description of any Supplemental Guarantee(s) that will apply to the Unguaranteed Portion of the loan.

* * * * *

7. Section 400.207 is amended by revising paragraph (b)(1) to read as follows:

§ 400.207 Application evaluation.

* * * * *

(b) * * *

(1) The ability of the Borrower to repay the loan by the date specified in the Loan Document, which shall be no later than December 31, 2005. Evaluation of this factor will consider the prospective earning power of the Borrower. An essential and necessary element of the Board's evaluation of whether this criterion is satisfied is whether the applicant has committed to undertake significant efforts to eliminate or reduce economically unviable capacity;

* * * * *

8. Section 400.208 is amended by revising paragraph (a)(3) to read as follows:

§ 400.208 Issuance of the Guarantee.

(a) * * *

(3) The Board's receipt of the Loan Documents and any related instruments, in form and substance satisfactory to the Board, and the Guarantee, all properly executed by the Lender, Borrower, and any other required party other than the Board; and

* * * * *

9. Section 400.210 is revised to read as follows:

§ 400.210 Assignment or transfer of loans.

(a) Neither the Loan Documents nor the Guarantee of the Board may be modified, in whole or in part, without the prior written approval of the Board.

(b) Upon notice to the Board and a certification by the assignor that the assignee is an Eligible Lender, and subject to the provisions of paragraphs (c) and (d) of this section and other provisions of this part, a Lender may assign or transfer its interest in the loan including the Loan documents and the Guarantee to a party that qualifies as an Eligible Lender pursuant to § 400.201. Any other assignment or transfer will require the prior written approval of the Board.

(c) The provisions of paragraph (b) of this section shall not apply to transfers which occur by operation of law.

(d) The Agent must hold and may not assign or transfer an interest in a loan guaranteed under the Program equal to at least the lesser of $25 million or fifteen percent of the aggregate amount of the loan. In addition, the Agent must hold and may not assign or transfer an interest the Unguaranteed Portion of the loan equal to at least the minimum amount of the loan required to be held by the Agent under the preceding sentence multiplied by the percentage of the loan represented by the Unguaranteed Portion. A non-Agent Lender must hold and may not assign or transfer an interest in the Unguaranteed Portion of the loan representing no less than five percent of such Lender's total interest in the loan; provided, that a non-Agent Lender may transfer its interest in the Unguaranteed Portion after payment of the Guaranteed Portion has been made under the Guarantee.

10. Section 400.215 is added to read as follows:

§ 400.215 Supplemental Guarantees.

The Board will allow the structure of a guaranteed loan to include one or more Supplemental Guarantees that cover the Unguaranteed Portion of the loan; provided that:

(a) There shall be no Supplemental Guarantee with respect to the Unguaranteed Portion required to be held by the Agent pursuant to § 400.210(c);

(b) The Loan Documents relating to any Supplemental Guarantee shall be acceptable in form and substance to the Board; and

(c) In approving the issuance of a Guarantee, the Board may impose any conditions with respect to Supplemental Guarantee(s) relating to the loan that it considers appropriate.

[FR Doc. 01–26337 Filed 10–16–01; 10:41 am]

BILLING CODE 1310–FP–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–19–AD; Amendment 39–12471; AD 2001–21–01]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Dornier Luftfahrt GmbH (Dornier) Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. This AD requires you to repetitively inspect the horizontal stabilizer skin and ribs for damage and cracks and repair any damaged skin or cracked ribs. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct damage and fatigue cracks in the horizontal stabilizer skin and ribs. This condition could cause in-flight separation of the horizontal stabilizer skin with consequent loss of control of the airplane.

DATES: This AD becomes effective on November 30, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of November 30, 2001.

ADDRESSES: You may get the service information referenced in this AD from Fairchild/Dornier, Customer Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (011) 49 8153 300; facsimile: (011) 49 8153 304463. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–19–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. The LBA reports two occurrences of cracks found around the riveted joints of the leading edge skin and ribs of the horizontal stabilizer during an inspection. The LBA reports that the cracks are caused by corrosion and material fatigue.

What Is the Potential Impact if FAA Took No Action?

If this condition is not detected and corrected, in-flight separation of the horizontal stabilizer skin could result with consequent loss of control of the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 21, 2001 (66 FR 43815). The NPRM proposed to require you to inspect the horizontal stabilizer ribs for cracks; inspect the horizontal stabilizer skin for cracks and damage around the riveted joints; repair or replace any cracked ribs; and repair any damaged skin.

Is There a Modification I Can Incorporate Instead of Repetitively Inspecting the Horizontal Stabilizer Structure?

The FAA has determined that long-term continued operational safety would be better assured by design changes that remove the source of the problem rather than by repetitive inspections or other special procedures. With this in mind, we will continue to work with Dornier in collecting information and in performing fatigue analysis to determine whether a future design change may be necessary.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 14 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 workhours × $60 per hour = $240	No parts required for the inspection	$240	$240 × 14 = $3,360

We have no method of determining the number of repetitive inspections each owner/operator will incur over the life of each of the affected airplanes so the cost impact is based on the initial inspection.

We have no method of determining the number of repairs or replacements each owner/operator will incur over the life of each of the affected airplanes based on the results of the inspections. We have no way of determining the number of airplanes that may need such repair. The extent of damage may vary on each airplane.

Compliance Time of This AD

What Is the Compliance Time of This AD?

The compliance time of this AD will be to accomplish the initial inspection ''within the next 100 hours time-in-service (TIS) after the effective date of this AD'', repetitive inspections at ''intervals not to exceed 100 hours TIS'', and any necessary repairs or replacements ''prior to further flight after the inspection.''

Why Is the Initial Inspection Compliance Time of the German AD Different From the Initial Inspection Compliance Time in This AD?

The German AD requires (on Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212

airplanes registered in Germany) the initial inspection within the next 10 flight hours. This is the compliance time specified in the service information. We do not have justification to require the initial inspection within 10 flight hours. We use a compliance time such as this when we have identified an urgent safety of flight situation. We believe that 100 hours TIS will give the owners/operators of the affected airplanes enough time to have the initial inspection and repairs and/or replacements accomplished without compromising the safety of the airplanes.

By accomplishing both the initial inspection and replacement at the same time, the owners/operators of the affected airplanes only have their airplanes out of service once instead of twice.

Regulatory Impact

Does This AD Impact Various Entities?

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.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under 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. FAA amends § 39.13 by adding a new AD to read as follows:

2001–21–01 Dornier Luftfahrt GMBH: Amendment 39–12471; Docket No. 2001–CE–19–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category;

Model	Serial Nos.
228–100 ...	7003 through 7116, 7167 and 7168.
228–101 ...	7003 through 7116, 7167 and 7168.
228–200 ...	All serial numbers beginning with 8002.
228–201 ...	All serial numbers beginning with 8002.
228–202 ...	All serial numbers beginning with 8002.
228–212 ...	All serial numbers beginning with 8002.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct damage and fatigue cracks in the horizontal stabilizer skin and ribs. This condition could cause in-flight separation of the horizontal stabilizer skin with consequent loss of control of the airplane.

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

Actions	Compliance	Procedures
Perform the following inspections: ..... (i) Inspect, using a boroscope (or equivalent), the horizontal stabilizer ribs for cracks. (ii) Inspect the horizontal stabilizer skin for damage (cracks and/or loose rivets).	Within the next 100 hours time-in-service (TIS) after November 30, 2001 (the effective date of this AD), and thereafter at intervals not-to-exceed 100 hours TIS.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild/Dornier Service Bulletin No. SB–228–234, dated October 13, 2000, and the applicable aircraft maintenance manual.
(2) Repair or replace any cracked rib and repair any damage to he horizontal stabilizer skin found during any inspection required in paragraph (d)(1) of this AD.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with the applicable structural repair manual.
(3) Report any cracks or damage found during the initial inspections required in paragraph (d)(1)(i) and (d)(1)(ii) of this AD to Fairchild/Dornier Customer Support, through the FAA. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.	Prior to further flight after the applicable inspection required in paragraph (d)(1) of this AD, or within 10 days after November 30, 2001 (the effective date of this AD), whichever occurs later.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild/Dornier Service Bulletin No. SB–228–234, dated October 13, 2000. Fill out the compliance form. Send it to Fair/Dornier at the address specified in paragraph (h) of this AD and send a copy to FAA at the address in paragraph (f) of this AD.

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

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

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

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition

addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Fairchild/Dornier Service Bulletin No. SB–228–234, dated October 13, 2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Fairchild/Dornier, Customer Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on November 30, 2001.

Note 2: The subject of this AD is addressed in German AD Number 2001–045, dated January 26, 2001.

Issued in Kansas City, Missouri, on October 9, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–26001 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–39–AD; Amendment 39–12472; AD 2001–21–02]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Company) TPE331–8, –10N, and –12B Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Company) TPE331–8, –10N, and –12B turboprop engines with certain electronic engine controls (EEC's) installed. This AD requires revising the Emergency and Normal Procedures section of the applicable Airplane Flight Manual (AFM) until the existing EEC's are replaced. This amendment is prompted by a report of an engine experiencing an uncommanded full power increase during an approach while both engine power levers were at the flight idle gate. The actions specified in this AD are intended to minimize exposure to flight and ground operations that could lead to the loss of control of the airplane due to asymmetric thrust and an uncommanded torque increase.

DATES: Effective November 19, 2001.

Comments for inclusion in the Rules Docket must be received on or before December 18, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–39–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov.* Comments sent via the Internet must contain the docket number in the subject line.

The temporary revisions referenced in this AD may be obtained from Cessna Propeller Aircraft Customer Service, P.O. Box 7706, Wichita, Kansas, 67277; telephone: (316) 517–5800, fax: (316) 517–7271.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5246; fax (562) 627–5210. Contact Bob Adamson, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita KS 67209; telephone (316) 946–4145; fax (316) 946–4407 with any questions and comments regarding AFM procedures pertaining to this AD.

SUPPLEMENTARY INFORMATION: In September 1999, a TPE331–10N turboprop engine experienced an uncommanded increase to full power during an approach while both engine power levers were at the flight idle gate. The pilot aborted the approach and re-established power symmetry by applying full power to the opposite engine. After reverting to manual mode, the pilot made a safe landing. Based on engine-propeller stand testing of certain engine control configurations, and a review of prior field reports of uncommanded torque or fuel increases, the FAA has determined that uncommanded torque may peak to 150% within 5 seconds of an initial torque acceleration. In addition, the number of uncommanded engine accelerations in service have been gradually increasing. Nine events of uncommanded power increases have occurred, in varying degrees of severity, within the past 17 years. This condition, if not corrected, could result in loss of control of the airplane due to asymmetric thrust from an uncommanded power increase.

Actions Required by This AD

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD requires a temporary revision to the Emergency and Normal Procedures section of the applicable FAA Approved AFM for each applicable engine installation in a multi-engine airplane. The temporary AFM revision provides procedures for minimizing asymmetric thrust resulting from uncommanded power increases in flight and on ground. The temporary AFM revision is effective for an individual multi-engine airplane until the existing EEC for each engine is replaced with a redesigned and reworked EEC. These AFM changes have been coordinated with the FAA Certification Office responsible for the certification of the airplanes involved.

The rework and testing of the EEC can only be accomplished at Honeywell's Repair Station in Tucson, Arizona, whose repair capacity and rate-of-repair is limited. The FAA has determined that the July 23, 2003 date was the earliest date to complete the rework and testing of all 775 existing EEC's. This determination assumes that the operator act expeditiously and coordinate this EEC repair with the Honeywell Repair Station.

Finding That Immediate Adoption Is Necessary

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are

invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–39–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–21–02 Honeywell International Inc.: Amendment 39–12472. Docket 2000–NE–39–AD.

Applicability

This airworthiness directive (AD) is applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Company) TPE331–8, –10N, and –12B turboprop engines with electronic engine controls (EEC's) part numbers (P/N's) 2101322–1, –4, –11, –12, –13, –14, –15 or –16 installed. These engines are installed on but not limited to Cessna Aircraft Company Model 441 Conquest airplanes.

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

Compliance

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

To minimize exposure to flight and ground operations that could lead to the loss of control of the airplane due to asymmetric thrust and an uncommanded torque increase, do the following:

Amending of the Airplane Flight Manual

(a) Within 30 days after the effective date of this AD, amend the applicable FAA Approved Cessna Airplane Flight Manual (AFM) Emergency Procedures and Normal Procedures Section to provide interim emergency procedures to flight crews, by inserting the Temporary Revisions specified in the following table:

TEMPORARY REVISIONS BY AIRPLANE MODEL AND SERIAL NUMBER (SN) AND AFM AFFECTED

Airplane model and serial No. (SN)	AFM affected	Temporary revision
(1) Cessna Model 441; SN's 441–0001 through 441–0172.	D1561–14–13PH through Revision 14, dated January 9, 1998. D1561–14TR9 dated April 11, 2001.	D1561–14TR2 through D1561–14, dated 14TR8 dated November 20, 2000
(2) Cessna Model 441; SN's 441–0173 and higher.	D1586–11–13PH through Revision 11, dated January 9, 1998.	D1586–11TR2 through D1586–11TR5 dated November 20, 2000. D1586–11TR7 and D1586–11TR8 dated November 20, 2000. D1586–11TR9 dated March 7, 2001. D1586–11TR10 dated April 11, 2001.

(b) Owners or operators of airplanes that have been modified by supplemental type certificate, where the AFM conflicts with the TR's specified in (a)(1) and (a)(2) of this AD, must contact Los Angeles Aircraft Certification Office (LAACO) to have their AFM's reviewed and approved.

Replacement of Electronic Engine Controls

(c) Replace all existing EEC's P/N's 2101322–1, –4, –11, –12, –13, –14, –15 and –16 with serviceable EECs before August 31, 2003.

(d) Information regarding the replacement of existing EEC's is available in Honeywell Alert Service Bulletins TPE331–A76–0035 dated July 23, 2001, TPE331–A76–0036 dated

July 23, 2001, and TPE331–A76–0037 dated July 23, 2001.

Removal of Temporary Revisions

(e) When all EEC's have been replaced in the airplane with serviceable EEC's, remove the applicable Temporary Revisions, specified in the preceding table, from the airplane flight manual.

Definitions

(f) For the purposes of the AD, a serviceable EEC is an EEC with a P/N that is not specified in this AD.

Alternative Methods of Compliance

(g) 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, LAACO. Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, LAACO.

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

Effective Date of This AD

(h) This amendment becomes effective on November 19, 2001.

Issued in Burlington, Massachusetts, on October 12, 2001.

Thomas A. Boudreau,

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

[FR Doc. 01–26323 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30275; Amdt. No. 2075]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format mate their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of this SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally

current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on October 12, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; AND § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC NO.	Subject
09/26/01	WA	SEATTLE	SEATTLE-TACOMA INTL	1/0489	ILS RWY 34L, ORIG...
09/26/01	WA	SEATTLE	SEATTLE-TACOMA INTL	1/0490	ILS RWY 34R, ORIG...
09/26/01	PA	PITTSBURGH	PITTSBURGH INTL	1/0493	CONVERGING ILS RWY 28R, AMDT 2
09/26/01	PA	PITTSBURGH	PITTSBURGH INTL	1/0495	CONVERGING ILS RWY 32, AMDT 3A...
09/27/01	WA	SEATTLE	SEATTLE-TACOMA INTL	1/0553	RNAV (GPS) RWY 34L, ORIG...
09/28/01	FL	ST. PETERSBURG-CLEARWATER.	ST. PETERSBURG-CLEARWATER INTL.	1/0584	VOR RWY 4, ORIG...
10/01/01	OK	HOBART	HOBART MUNI	1/0739	GPS RWY 17, ORIG–A...
10/01/01	OK	HOBART	HOBART MUNI	1/0743	GPS RWY 35, ORIG–A...
10/01/01	OK	HOBART	HOBART MUNI	1/0753	VOR RWY 35, AMDT 8A...
10/02/01	WA	TACOMA	TACOMA NARROWS	1/0776	NDB RWY 35, AMDT 7...
10/02/01	FL	SARASOTA/BRA-DENTON.	SARASOTA/BRADENTON INTL	1/0786	ILS RWY 32, AMDT 4B...
10/02/01	FL	SARASOTA/BRA-DENTON.	SARASOTA/BRADENTON INTL	1/0787	ILS RWY 14, AMDT 3A...
10/03/01	CT	BRIDGEPORT	IGOR I SIKORSKY MEMORIAL	1/0855	ILS RWY 6, AMDT 9...
10/03/01	NH	KEENE	DILLANT-HOPKINS	1/0864	VOR RWY 2, AMDT 12...
10/03/01	NH	KEENE	DILLANT-HOPKINS	1/0866	ILS RWY 2, AMDT 2A...
10/03/01	AZ	PHOENIX	PHOENIX SKY HARBOR INTL	1/0869	ILW RWY 26, ORIG...
10/04/01	PA	PHILADELPHIA	PHILADELPHIA INTL	1/0887	ILS RWY 26, AMDT 2...
10/04/01	PA	PHILADELPHIA	PHILADELPHIA INTL	1/0888	ILS PRM RWY 27L, AMDT 1...
10/04/01	PA	PHILADELPHIA	PHILADELPHIA INTL	1/0889	ILS PRM RWY 26, AMDT 1...
10/04/01	IA	DUBUQUE	DUBUQUE REGIONAL	1/0895	LOC/DME BC RWY 13, AMDT 5A...
10/04/01	IA	DUBUQUE	DUBUQUE REGIONAL	1/0896	VOR OR GPS RWY 13, AMDT 9...
10/04/01	IA	DUBUQUE	DUBUQUE REGIONAL	1/0897	VOR RWY 31, AMDT 11C...
10/04/01	IA	DUBUQUE	DUBUQUE REGIONAL	1/0898	NDB OR GPS RWY 31, AMDT 8C...
10/04/01	IA	DUBUQUE	DUBUQUE REGIONAL	1/0899	LOC RWY 31, ORIG...
10/04/01	IA	DUBUQUE	DUBUQUE REGIONAL	1/0900	ILS RWY 36, ORIG...
10/04/01	TX	DALLAS-FORT WORTH	DALLAS-FORT WORTH INTL	1/0906	CONVERGING ILS RWY 17R, AMDT 6A...
10/04/01	TX	DALLAS-FORT WORTH	DALLAS-FORT WORTH INTL	1/0908	CONVERGING ILS RWY 35L, AMDT 1D...
10/04/01	TX	DALLAS-FORT WORTH	DALLAS-FORT WORTH INTL	1/0909	ILS RWY 17R, AMDT 20A...
10/04/01	TX	DALLAS-FORT WORTH	DALLAS-FORT WORTH INTL	1/0910	ILS RWY 35L, AMDT 2C...
10/04/01	TX	FORT WORTH	FORT WORTH ALLIANCE	1/0914	ILS RWY 34R, AMDT 4A...
10/04/01	TX	FORT WORTH	FORT WORTH ALLIANCE	1/0915	ILS RWY 16L (CAT I, II, III) AMDT 5A...
10/04/01	IL	VANDALIA	VANDALIA MUNI	1/0938	VOR RWY 18, AMDT 11...
10/04/01	ME	BANGOR	BANGOR INTL	1/0968	ILS RWY 33, AMDT 10A...
10/04/01	GA	ATLANTA	FULTON COUNTY AIRPORT-BROWN FIELD.	1/0969	NDB OR GPS RWY 8, AMDT 2A...
10/04/01	GA	ATLANTA	FULTON COUNTY AIRPORT-BROWN FIELD.	1/0970	ILS RWY 8, AMDT 15F...
10/08/01	MN	GRANITE FALLS	GRANITE FALLS MUNI/LENZEN-ROE MEMORIAL FLD.	1/1008	GPS RWY 34, ORIG...
10/08/01	MN	GRANITE FALLS	GRANITE FALLS MUNI/LENZEN-ROE MEMORIAL FLD.	1/1009	VOR/DME RWY 34, ORIG...

FDC date	State	City	Airport	FDC NO.	Subject
10/09/01	UT	HEBER CITY	HEBER CITY MUNI-RUSS MCDONALD FIELD.	1/1092	RNAV (GPS)–A, ORIG...
10/09/01	MI	HANCOCK	HOUGHTON COUNTY MEMORIAL ...	1/1095	ILS RWY 31, AMDT 13...
10/09/01	MI	HANCOCK	HOUGHTON COUNTY MEMORIAL ...	1/1096	NDB OR GPS RWY 31, AMDT 11A...
10/09/01	IA	DUBUQUE	DUBUQUE REGIONAL	1/1118	VOR OR GPS RWY 36, AMDT 5C...

[FR Doc. 01–26459 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30274; Amdt. No. 2074]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action to immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on October 12, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective November 1, 2001*

Lafayette, GA, Barwick Lafayette, RNAV (GPS) RWY 2, Orig
Lafayette, GA, Barwick Lafayette, RNAV (GPS) RWY 20, Orig
Detroit, MI, Detroit Metropolitan Wayne County, ILS RWY 4L, Orig
Detroit, MI, Detroit Metropolitan Wayne County, ILS RWY 22R, Orig
Duluth, MN, Duluth Intl, ILS RWY 9, Amdt 20
Missoula, MT, Missoula Intl, RNAV (GPS) RWY 11, Orig
Missoula, MT, Missoula Intl, GPS RWY 11, Orig, CANCELLED
Manchester, NH, Manchester, ILS RWY 6, Orig
Waco, TX, McGregor Executive, RNAV (GPS) RWY 17, Orig
Waco, TX, McGregor Executive, RNAV (GPS) RWY 35, Orig
Waco, TX, McGregor Executive, GPS RWY 17, Orig-A, CANCELLED
Waco, TX, McGregor Executive, GPS RWY 35, Amdt 1, CANCELLED

** * * Effective November 29, 2001*

Indiana, PA, Indiana County/Jimmy Stewart Field, GPS RWY 10, Orig, CANCELLED
Philadelphia, PA, Northeast Philadelphia, VOR OR GPS RWY 6, Amdt 11

** * * Effective December 27, 2001*

Sand Point, AK, Sand Point, MLS RWY 13, Orig, CANCELLED
Clearwater, FL, Clearwater Air Park, RNAV (GPS) RWY 16, Orig, CANCELLED
Annapolis, MD, Lee, RNAV (GPS) RWY 30, Orig
Harbor Springs, MI, Harbor Springs, RNAV (GPS) RWY 28, Amdt 1
Poplar, MT, Poplar, RNAV (GPS) RWY 9, AMDT 1
Amarillo, TX, Amarillo Intl, RNAV (GPS) RWY 4, Orig
Amarillo, TX, Amarillo Intl, RNAV (GPS) RWY 22, Orig
Amarillo, TX, Amarillo Intl, GPS RWY 4, Amdt 1, CANCELLED
Amarillo, TX, Amarillo Intl, GPS RWY 22, Amdt 1, CANCELLED
San Antonio, TX, San Antonio Intl, VOR–A, Amdt 5, CANCELLED
San Antonio, TX, San Antonio Intl, RADAR–1, Amdt 25, CANCELLED

Note: The FAA published the following procedure in Docket No. 30264, Amdt No. 2065 to Part 97 of the Federal Aviation Regulations (Vol 66, FR No. 164, Page 44302; dated Thursday, August 23, 2001) under section 97.23 effective October 4, 2001, which is hereby amended to read as follows: New York, NY, John F. Kennedy Intl, VOR/DME RWY 31L, Amdt 13, CANCELLED.

Note: The FAA published the following procedures in Docket No. 30272, Amdt No. 2072 to Part 97 of the Federal Aviation Regulations (Vol 66, FR No. 194, Page 50824 dated Friday, October 5, 2001) under sections 97.23 and 97.33 effective November 1, 2001 which are hereby amended to be effective November 29, 2001: Stafford VA, Stafford Regional, VOR RWY 33, Orig. Stafford, VA, Stafford Regional, RNAV (GPS) RWY 33, Orig.

[FR Doc. 01–26458 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 76N–052G]

RIN 0910–AA01

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Partial Final Rule for Combination Drug Products Containing a Bronchodilator; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of September 27, 2001 (66 FR 49276). The document issued a final rule establishing that cough-cold combination drug products containing any oral bronchodilator active ingredient in combination with any analgesic(s) or analgesic-antipyretic(s), anticholinergic, antihistamine, oral antitussive, or stimulant active ingredient are not generally recognized as safe and effective and are misbranded for over-the-counter (OTC) use. The document published with two inadvertent errors. This document corrects those errors.

DATES: This rule is effective October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy, Planning, and Legislation (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 01–24127, appearing on page 49276 in the **Federal Register** of Thursday, September 27, 2001, the following corrections are made:

1. On page 49276, in the second column, in the third line, ''Food and Drug Administration.'' is corrected to read ''Food and Drug Administration''.

2. On page 49276, in the second column, in the fourth line, ''21 CFR part 341'' is corrected to read ''21 CFR part 310''.

Dated: October 9, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy

[FR Doc. 01–26315 Filed 10–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–018]

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA; Correction

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations; correction.

SUMMARY: The Coast Guard published a document in the **Federal Register** of July 23, 2001, concerning a temporary deviation from the regulation governing the operation of the Florida Avenue bascule span drawbridge across the Inner Harbor Navigation Canal, mile 1.7 at New Orleans, Orleans Parish, Louisiana. This temporary deviation was issued to allow for replacement of the damaged fender system. The work

has been rescheduled and the dates have changed from those which were previously published.

DATES: The effective date of the notice of temporary deviation from regulations published July 23, 2001 (66 FR 38155) is corrected to be from 6:45 a.m. on Monday, October 29, 2001, until 6:45 p.m. on Monday, November 19, 2001.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 589–2965.

Correction

In the **Federal Register** of July 23, 2001, in FR Doc. 01–18245 on page 38155 in the first column: 1. Correct the second sentence of the **SUMMARY** caption to read:

This deviation allows the draw of the Florida Avenue bascule span drawbridge to remain closed to navigation daily from 6:45 a.m. until 12:15 p.m. and from 1:15 p.m. until 6:45 p.m. from October 29, 2001 through November 19, 2001.

2. In the second column of page 38155, correct the first sentence of the second paragraph of the **SUPPLEMENTARY INFORMATION** caption to read:

This deviation allows the draw of the Florida Avenue bascule span drawbridge to remain closed to navigation daily from 6:45 a.m. until 12:15 p.m. and from 1:15 p.m. until 6:45 p.m. from October 29, 2001 through November 19, 2001.

Dated: October 5, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–26162 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 20

Global Express Mail

AGENCY: Postal Service.

ACTION: Interim rule.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service will offer a 5 percent discount off of regular postage for all Global Express Mail™ shipments paid through the shipping site at *www.usps.com.* The discount will apply only to the basic portion of Global Express Mail published rates. It would not apply to pick-up service charges, additional merchandise insurance coverage fees, or shipments made under an International Customized Mail agreement.

EFFECTIVE DATE: November 1, 2001.

ADDRESSES: Written comments should be sent to the Manager, International Marketing, International Business, U.S. Postal Service, 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: Angus MacInnes, (703) 292–3601

SUPPLEMENTARY INFORMATION: The Postal Service is establishing changes in conditions for certain mailing categories to automatically reduce every payment transaction by 5 percent for all Global Express Mail purchased at basic published prices and paid on the shipping site at *www.usps.com.* The discount will be deducted from each piece paid for through the Web site. The discount will be offered on postage only; it does not apply to pickup fees, any special fees, or postage for shipments made under an International Customized Mail agreement.

The Postal Service established the shipping site at *www.usps.com* to offer an online capability for customers to be able to prepare, ship, and pay for service shipments. Payment will be made using an online postage capability. Global Express Mail will be included in the services that are offered through this Web site. The discount is similar to the ones that are offered for Global Express Guaranteed shipments that are made through the same Web site and for Global Express Mail shipments that are paid for through an Express Mail Corporate Account.

As required under the Postal Reorganization Act, these changes will result in conditions of mailing that do not apportion the costs of the service, so the overall value of the service to users is fair and reasonable, and not unduly or unreasonably discriminatory or preferential.

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advanced notice requirements of the Administrative Procedure Act regarding rulemaking (5 U.S.C. 553), interested parties are invited to submit written data, views, or comments regarding this interim rule to the address above.

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) is amended to incorporate the following changes:

International Mail Manual (IMM)

* * * * *

2 Conditions for Mailing

* * * * *

220 Global Express Mail

* * * * *

222 Postage

* * * * *

[Add new 222.13 as follows:]

222.13 Online Rates—General

Discounted rates apply to Global Express Mail (EMS) customers who prepare and pay for Global Express Mail shipments online using the shipping site at *www.usps.com.*

222.131 Eligibility for Online Discounts

To be eligible for discounts for purchasing Global Express Mail online, customers must register via the shipping site at *www.usps.com.* Registration is accomplished by selecting the designated icon on the web site and following the accompanying instructions. This one-time registration will establish a shipping record and a customer history. To be eligible for online discounts, customers must prepare their shipping labels and pay for their shipments online using a credit card. The following credit cards are accepted for payment online: American Express, Diner's Club, Discover, MasterCard, and Visa.

222.132 Online Discounts

Global Express Mail published rates will be reduced by 5 percent for all payments made through the shipping site at *www.usps.com.* The discount applies only to the postage portion of Global Express Mail rates. It does not apply to the pickup service charge, additional merchandise insurance coverage fees, or shipments made under an International Customized Mail agreement.

222.2 Payment of Postage

222.21 Methods of Payment

[*Revise 222.21 to read as follows:*]

Global Express Mail items may be paid by postage stamps, postage validation imprinter (PVI) labels, postage meter stamps, information based indicia (IBI), or through the use of an Express Mail corporate account.

* * * * *

224 Preparation Requirements

224.1 Preparation by Sender

[*Revise item a to read as follows:*]

a. Complete the ''From'' and ''To'' portion of Label 11–B, Express Mail Post Office to Addressee, or online label for each piece of mail and affix the completed label to each piece.

* * * * *

224.2 Preparation by Acceptance Employee

* * * * *

[*Revise item d to read as follows:*]

d. Give the Customer Receipt copy to the mailer and retain the Finance Copy. Peel off the backing of the remaining portion and affix it to the item. For online shipments, customer receipts are not necessary; for non-IRT and POS offices, record the required Finance information on the special form provided for this purpose.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–26444 Filed 10–18–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4154; FRL–7083–4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revisions impose reasonably available control technology (RACT) on two major sources of nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on November 5, 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 18, 2000, EPA published a direct final rule approving RACT determinations submitted by the Pennsylvania Department of Environmental Protection (PADEP) for twenty-six major sources of NO_X and/or volatile organic compounds (VOC) and a companion notice of proposed rulemaking (65 FR 20788). We received adverse comments on the direct final rule and a request for an extension of the comment period. We had indicated in our April 18, 2001 direct final rulemaking that if we received adverse comments, we would withdraw the direct final rule and address all public comments in a subsequent final rule based on the proposed rule (65 FR 20788). On June 19, 2000 (65 FR 38168), EPA published a withdrawal notice in the **Federal Register** informing the public that the direct final rule did not take effect. On June 19, 2000 (65 FR 38169), we also published a notice providing an extension of the comment period and making corrections to our original proposed rule. This final rule pertains to two of the twenty-six sources which were included in the April 18, 2001 rulemaking, namely Allegheny Ludlum Steel Corporations's Vandergrift Plant located in Westmoreland County and INDSPEC Chemical Corporation's Petrolia Plant located in Butler County. The remaining twenty-four sources will be the subject of separate rulemakings.

II. Summary of the SIP Revisions

On March 21, 1996, December 7, 1998 and April 9, 1999, the PADEP submitted NO_X RACT determinations for Allegheny Ludlum Steel Corporations's Vandergrift Plant located in Westmoreland County and INDSPEC Chemical Corporation's Petrolia Plant located in Butler County to EPA as SIP revisions. On April 18, 2001 (65 FR 20788), EPA proposed to approve these SIP revisions. Brief descriptions of the RACT requirements imposed for these sources are provided at II. A and B.

A. Allegheny Ludlum Steel Corporations's Vandergrift Plant

This is a major NO_X facility as defined in 25 Pa. Code Chapter 121, section 121.1 of Pennsylvania's SIP approved regulations. Therefore the facility is subject to the RACT requirements of Chapter 129, section 129.91 of Pennsylvania's SIP approved regulations. The facility submitted a RACT proposal in accordance with the SIP-approved requirements section 129.92. Boiler's #1 and #2 are combustion units with a rated input equal to or greater than 20MMBtu/hr but less than 50MMBtu/hr. Allegheny Ludlum elected to comply with the SIP-approved presumptive RACT requirements applicable to such size boilers found at section 129.93(b)(2). The PADEP cited to these requirements in Condition 4 of RACT Operating Permit No. 65–000–137 issued to Allegheny Ludlum Steel Corporations's Vandergrift Plant. The two remaining sources at the facility that require a RACT analysis are the No. 90 line anneal furnace used to anneal stresses introduced during rolling operations, and the associated pickling line process where steel is submerged in a an acid bath which dissolves and removes oxidized metal and other materials from the surface of the steel. Brief descriptions of the RACT requirements imposed by PADEP are provide below. The RACT plan proposal submitted by Allegheny County Ludlum on March 17, 1994 and PADEP's Review of the RACT Application, dated June 22, 1995, detail the technical and economic analyses performed to rank control technology options in accordance with 25 Pa Code 129.92. Those documents, among others generated by PADEP, are included in the docket for this rulemaking.

The 90 line furnace is capable of annealing steel at temperatures ranging from 1350 degrees to 2200 degree F. Control technology options were analyzed and ranked by Allegheny Ludlum for the 90 line furnace including: (1) Selective catalytic reduction (SCR) and Low NO_X Burners (LNB); (2) SCR only; (3) LNB and flue gas recirculation (FGR); and FGR alone. The costs per ton of NO_X removed calculated to $9285/ton for SCR and LNB; $8958/ton for SCR; $9160/ton for LNB and FGR; and $3349/ton for FGR. The pickling line uses a nitric acid/hydrofluoric acid bath and is currently employing absorption and chemical reaction technology. Several control options were evaluated for this source. An oxidation/absorption system with chemical reaction and 85% control efficiency was evaluated and found to

have a total cost effectiveness of $4807/ton reduced. A hydrogen peroxide injection system was also investigated. This system was found to have a 75% control efficiency at a cost effectiveness of $3767/ton. Both SCR an selective non-catalytic reduction (SNCR) were evaluated. These were deemed to be technologically infeasible due to the low operating temperature of the needed scrubber. Therefore, the PADEP concluded no additional controls, beyond those already employed, were required as RACT for the 90 anneal line furnace and the pickling line. The PADEP did impose maximum annual NO_X emissions from each unit to be met over every consecutive 12 month period in RACT Permit No. 65–000–137. The No. 90 A& P line furnace is limited to 25.9 tons/year, the No. 90 A&P line scrubber to 103.0 tons/year, Boilers #1 and #2 to 14.3 tons/year each; and the Roller Hearth Line to 10.6 tons/year. RACT Permit No. 65–000–137 also requires that Allegheny Ludlum comply with the record keeping requirements of SIP-approved 25 Pa Code Chapter 129, section 129.95.

B. INDSPEC Chemical Corporation's Petrolia Plant

On December 7, 1995, PADEP issued a RACT approval, Permit Number: PA 10–021, to INDSPEC Chemical Corporation's Petrolia Plant located in Butler County. On October 19, 1998, PADEP issued an amended RACT approval to this facility retaining the same Permit Number: PA 10–021. The permit was issued to INDSPEC Chemical Corporation (INDSPEC) for achieving compliance with the SIP-approved provisions of 25 Pa Code Section 129.91 through 129.95. The facility and PADEP submitted extensive RACT analyses in accordance with the SIP-approved provisions of 129.91 and 129.92. These analyses are included in docket for this rulemaking. Boiler #3 has been removed from service completely. The PADEP has determined that were it to have remained in service after May 31, 1995, RACT would have been that it be operated and maintained in accordance with manufacturer's recommendations and with good air pollution control practices. For boilers #4, #5, and #7 which by design or by de-rates imposed in enforceable permit conditions, INDSPEC has elected to comply with the SIP-approved presumptive RACT requirements of 129.93. The PADEP has determined that RACT for Boiler #8 is that it be operated and maintained in accordance with manufacturer's recommendations and with good air pollution control practices. Boiler #9 had been permitted under 25 Pa Code Chapter 127, and had installed low NO_X burners as Best Available Technology (BAT). BAT is the control technology requirement imposed on new sources and modifications not otherwise subject to Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) under the SIP-approved new source review program. The PADEP reaffirmed the 1993 BAT requirement as RACT. In addition, the PADEP has imposed the following emission NO_X emission limitations under condition 8 of Permit No. PA 10–021:

Boiler #3—0.51 lbs/MMBtu, 25.5 lbs/hr, 111.7 tons/year
Boiler #7—0.14 lbs/MMBtu, 8.4 lbs/hr, 15.6 tons/year
Boiler #8—0.51 lbs/MMBtu, 60.2 lbs/hr, 263.6 tons/year
Boiler #9—0.11 lbs/MMBtu, 22 lbs/hr, 96.4 tons/yr

The ton/yr limits must be met on a 12 month rolling basis. Boiler #7 shall not burn more than 223 mmcf of natural gas per year (also based on a 12 month rolling total). INDSPEC must install, operate and maintain continuous emission monitoring systems in accordance with 25 Pa Code Chapter 139 and 40 CFR Part 60, Subpart Db. INDSPEC must monitor and record the amount of steam produced, the pressure at which it is produced, the boiler efficiency and the heat input to boilers #4 and #5 to insure compliance with their de-rated heat input capacity of 49.5 MMBtu/hr.

As RACT for VOC, the PADEP has imposed condition 6 in Permit No. PA 10–021 to require that INDSPEC install combination flame arrester conservation vents on its four ether feed tanks, T–869, T–870, T–1085, and T–1086. Condition 7 of Permit No. PA 10–021 requires that the VOC emissions from these tanks shall be reduced by 96.5%.

Permit No. PA 10–021 also requires that stack tests be performed in accordance with Chapter 139 to of the approved-SIP regulations to demonstrate compliance with the emission limits imposed in condition 7 (for the 96.5% percent reduction in VOCs) and condition 8 (for the #7 boiler). The combustion units rated greater than 100 MMBtu shall be stack tested to comply with the requirements of 129.91. Permit No. PA 10–021 also requires INDSPEC to comply with the record keeping requirements of 129.95.

On April 18, 2000 EPA proposed to approve these RACT determinations (65 FR 20788) because the 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 PADEP has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

II. Summary of Public Comments Received and EPA's Responses

EPA received comments on its April 18, 2000 proposal to approve Pennsylvania's RACT SIP submittals for twenty six—six sources from Citizens for Pennsylvania's Future (PennFuture), and from a concerned citizen. The comments that are germane to the RACT determinations for Allegheny Ludlum Steel Corporations's Vandergrift Plant and INDSPEC Chemical Corporation's Petrolia Plant are summarized below. EPA's responses are provided after each comment.

A. Comment: PennFuture comments that EPA should require that each RACT submittal include ''effective and enforceable numerical emission limits'' as a condition for approval. Additionally, PennFuture requests that EPA only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations. PennFuture contends that such an approach will ensure maximum environmental benefits and minimize the opportunity for sources to generate spurious emission reduction credits (ERCs) against limits that exceed emission levels actually achieved following the application of RACT. Lastly PennFuture comments that EPA should describe the RACT determinations in its rulemaking notices published in the **Federal Register** rather than simply citing to technical support documents and other materials available in docket of the rulemaking.

Response: 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. (See *http://www.epa.gov/ttn/catc/dir1/ctg.txt*). That said, the RACT determinations made by PADEP for Allegheny Ludlum Steel Corporations's Vandergrift Plant and INDSPEC Chemical Corporation's Petrolia Plant include both SIP-approved presumptive RACT requirements and numerical emission rates.

With regard to the criteria EPA uses to determine whether to approve or disapprove RACT SIP revisions submitted by PADEP pursuant to 25 Pa Code Chapter 129.91–129.95, we look to the provisions of those SIP-approved regulations and to the requirements of the Clean Air Act and relevant EPA guidance. 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 the following information: (1) A list 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.''

EPA reviews 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 first reviews a SIP submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT, respectively. 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 we may add additional EPA-generated analyses to the record. Thus, EPA does not believe it would be appropriate to only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations.

EPA does note that an approved RACT emission limitation alone does not constitute the baseline against which ERCs may be generated. There are many other factors that must be considered in the calculation of eligible ERCs under Pennsylvania's approved SIP regulations governing the creation ERCs. Moreover, the scenario posed in PennFuture's comment would not create eligible ERC's under the Commonwealth approved SIP regulations. Under the Commonwealth's regulations pertaining to ERCs, found at 25 Pa. Code Chapter 127, sections 127.206 through 127.210 (approved by the EPA at 62 FR 64722 on December 9, 1997), sources cannot obtain ERCs if they find that their RACT controls result in lower emissions than allowed by their specified RACT limits.

While EPA believes that Federal rulemaking procedures allow for the format and procedures used in its April 18, 2000 rulemaking notices, we have nonetheless described the RACT determinations made for Allegheny Ludlum Steel Corporations's Vandergrift Plant located in Westmoreland County and INDSPEC Chemical Corporation's Petrolia Plant in this document.

B. Comment: A private citizen expresses concern that the RACT requirements for INDSPEC Chemical Corporation's #8 and #3 boilers might not be sufficiently stringent. He believes that at if this was the case, the Company might be able to claim excessive amounts of emission reduction credits (ERCs). With respect to Boiler #8, the citizen was concerned that the Commonwealth had established a RACT emissions limit based upon this boiler operating as a coal-fired unit and not as a gas-fired unit. He points out that the Company had, in 1994, converted Boiler #8 to gas-firing, resulting in significant reductions in NO_X emissions. In particular, he questions the conclusion that the cost effectiveness of the conversion was $5,500 per ton of NO_X removed. He contends that INDSPEC's motivations for the conversion from coal to gas may have been driven based on economic considerations citing that perhaps the boiler was too costly to maintain on coal, or perhaps the company was faced with the prospect of adding other emissions controls. He contends that by converting to gas, the company derives savings on personnel, maintenance on fuel handling and burning equipment, wear and tear on the boiler and maintenance on air pollution control equipment. With respect to Boiler #3, the citizen is also concerned that the Commonwealth might have established a RACT emissions limit which was too high. He notes the boiler had been shutdown and that the Commonwealth had established a RACT emissions limit for the boiler using an emissions factor. He maintains that the emissions limit should have been based on CEM or EPA-reference method data. He also maintains that EPA must assure that ERCs are based on the lower of actual or allowable emissions. The citizen concludes by saying that the entire steam generating plant should be capped such that prior actual emissions are discounted for the generation of ERCs, after RACT has been implemented; and that the implementation of RACT should not be allowed to create ERCs, only reductions beyond RACT are allowed for ERC creation.

Response: EPA concurs with the Commonwealth's analyses that the cost of removing NO_X by converting Boiler #8 to gas firing, at $5,500 per ton of NO_X removed, is higher than the cost which has typically considered to be reasonable when determining RACT controls. The Commonwealth has set out objective requirements for all subject facilities to make a case-by-case

RACT proposals in sections 129.91, 129.92, and 129.93 and EPA has approved them as part of the SIP. Trying to ascertain other motives that INDSPEC may have had for the conversion and then taking into account the types of cost savings which the citizen identified is not consistent with an objective approach toward determining RACT.

Given that Boiler #3 was shutdown in 1992, and the absence of any available CEM or EPA-reference method emissions data, EPA believes that the Commonwealth's decision to establish a RACT limit for this boiler based on an emissions factor was reasonable. With respect to the citizen's concerns regarding the possibility of the Company obtaining excessive ERCs, again EPA notes that the Commonwealth's SIP-approved regulations pertaining to ERC generation and creation, found at 25 Pa. Code Chapter 127, sections 127.206 through 127.210, contain provisions which would prevent the granting of excess ERCs. The regulations require all ERCs to be surplus, permanent, quantified, and Federally enforceable. Moreover, under the Pennsylvania SIP, ERCs must also meet the offset requirements of the Commonwealth's new source review program. The calculation of eligible ERCs under the Pennsylvania SIP does not allow for ''only on paper credits.'' Under 25 Pa. Code Chapter 127, sections 127.206 through 127.210 such calculations take into account the generating source's actual operating history and only actual emission reductions are creditable.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for Allegheny Ludlum Steel Corporations's Vandergrift Plant located in Westmoreland County and INDSPEC Chemical Corporation's Petrolia Plant located in Butler County. EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The PADEP has also imposed record keeping, 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 two 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 18, 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 revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for Allegheny Ludlum Steel Corporations's Vandergrift Plant located in Westmoreland County and INDSPEC Chemical Corporation's Petrolia Plant located in Butler County 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)(186) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(186) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to NO_X RACT, submitted on March 21, 1996, December 7, 1998 and April 9, 1999.

(i) *Incorporation by reference.*

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific NO_X RACT determinations in the form of plan approvals or operating permits on March 21, 1996, December 7, 1998 and April 9, 1999.

(B) Plan approvals (PA), and Operating permits (OP) for the following sources:

(*1*) Allegheny Ludlum Steel Corporation, Westmoreland County, OP 65–000–137, effective May 17, 1999, except for the expiration date.

(*2*) INDSPEC Chemical Corporation, Butler County, PA 10–021, as amended and effective on October 19, 1998 except for Condition 4.

(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)(186)(i)(B) of this section.

[FR Doc. 01–26405 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[PA175–4179; FRL–7079–6]

Approval and Promulgation of Air Quality Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Pennsylvania; Redesignation of Pittsburgh-Beaver Valley Ozone Nonattainment Area to Attainment and Approval of Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is determining that the Pittsburgh-Beaver Valley moderate ozone nonattainment area (the Pittsburgh area) has attained the 1-hour ozone National Ambient Air Quality Standard (NAAQS) by its extended attainment date. The Pittsburgh area is comprised of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland counties. This determination is based on three years of complete, quality-assured, ambient air quality monitoring data for the 1998 to 2000 ozone seasons that demonstrate that the ozone NAAQS has been attained in the area, and the most recent data which shows that the area is continuing to attain. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements along with certain other related requirements of Part D of Title 1 of the Clean Air Act (the Act), are not applicable to the Pittsburgh area. EPA is also approving the Commonwealth of Pennsylvania's Department of Environmental Protection (PADEP) request to redesignate the Pittsburgh area to attainment of the 1-hour ozone NAAQS. The Commonwealth's formal request was dated May 21, 2001. In approving this redesignation request, EPA is also approving as a revision to the Pennsylvania State Implementation Plan (SIP), the Commonwealth's plan for maintaining the 1-hour ozone standard for the next 10 years. EPA is also approving the 1990 base year emission inventory for nitrous oxides (NO_X). EPA is converting the limited approval of Pennsylvania's New Source Review (NSR) program to full approval throughout the Commonwealth with the exception of the 5-county Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area where it will retain its limited approval status until that area has an approved attainment demonstration for the 1-hour ozone standard.

EFFECTIVE DATE: This final rule is effective on November 19, 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; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Jill Webster, (215) 814–2033, or by e-mail at *Webster.Jill@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 10, 2001 (66 FR 1925), EPA published a determination of attainment for the Pittsburgh area. This notice of proposed rulemaking (NPR) also proposed a determination that certain requirements of the Act were no longer applicable. On May 30, 2001 (66 FR 29270), EPA published another NPR for the Commonwealth of Pennsylvania. This May 30, 2001, NPR proposed to redesignate the Pittsburgh area to attainment of the 1-hour ozone standard. EPA also proposed to approve the maintenance plan that the Commonwealth submitted as a revision to the Pennsylvania SIP. EPA proposed these actions in parallel with the Commonwealth's process for amending the SIP. No substantial changes were made to the plan during the Commonwealth's adoption process and the Commonwealth formally submitted its adopted SIP on May 21, 2001.

On May 30, 2001 (66 FR 29270) EPA also proposed approval of the 1990 NO_X base year inventory and, to convert the limited approval of the Pennsylvania NSR program to full approval for the entire Commonwealth, with the exception of the Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. This document is organized as follows:

I. What is the background for these actions?
II. What comments did we receive and what are our responses?
III. What actions are we taking?
IV. Why are we taking this action to redesignate the area?
V. What are the effects of redesignation to attainment of the 1-hour NAAQS?
VI. Administrative Requirements.

I. What Is the Background for These Actions?

The history for these actions have been set forth in the proposed rulemakings published May 30, 2001 (66 FR 29270) and January 10, 2001 (66 FR 1925).

II. What Comments Did We Receive and What Are Our Responses?

We received letters containing adverse comments from 2 commenters and 1 letter in support of our proposal of January 10, 2001. For our May 30, 2001 proposal, we received 5 letters opposed to our actions and 1 letter in support. Comments in support of the rulemaking action are not summarized below. The adverse comments and EPA's response to them are provided below.

A. Comments Related to Whether the Area Has a Fully Approved Plan

We received comments from several parties who assert that pursuant to 107(d)(3)(E)(ii) of the Clean Air Act, EPA cannot redesignate an area to attainment unless EPA ''has fully approved the applicable implementation plan for the area.'' They contend that EPA has yet to fully approve the applicable implementation plan for the Pittsburgh area. The commenters maintain that, among other things, EPA has yet to fully approve the moderate area ozone SIP for this area by failing to have fully approved the following specific SIP elements required by the Clean Air Act:

(1) An Attainment Determination and Attainment Demonstration

Comment: Several commenters assert that the Act required moderate area SIP submittals to include an attainment demonstration based on modeling or other analytical method determined by EPA to be at least as effective. The commenters contend that EPA has not approved an attainment demonstration for Pittsburgh, nor has the state submitted an approvable attainment demonstration. The commenters also claim that EPA's proposal to waive requirements of section 172(c)(1) and 182(b)(1) of the Act concerning submission of the ozone attainment demonstration, reasonable further progress (RFP) demonstration and reasonably available control measures and section 172(c)(9) concerning contingency measures, is without justification. They also contend that EPA has no authority to waive these requirements. One commenter questions why EPA makes no mention of the attainment demonstration adopted December 29, 1997 by the Commonwealth and asserts that EPA's proposal to waive the requirements of section 172(c), section 182(b)(1), and section 172(c)(9) have no effect since EPA has not redesignated the area.

Response: On January 10, 2001 (66 FR 1925), EPA proposed that the Pittsburgh area had attained the standard based on 1998–2000 monitoring data. With this finding, EPA also proposed that certain requirements, including an attainment demonstration, were no longer applicable as the area had attained the standard. EPA has explained at length in other actions its rationale for the reasonableness of this interpretation of the Act and incorporates those explanation by reference. See (61 FR 20458) (Cleveland-Akron-Lorain, Ohio May 7, 1996); (60 FR 36723) (July 18, 1995) Salt Lake and Davis Counties, Utah); (60 FR 37366) (July 20, 1995), (61 FR 31832–31833) (June 21, 1996) (Grand Rapids, MI), (65 FR 37879) (June 19, 2000) Cincinnati-Hamilton, Ohio and Kentucky. The United States Court of appeals for the Tenth Circuit has upheld EPA's interpretation. *Sierra Club* v. *EPA,* 99 F. 3d 1551 (10th Cir. 1996).

EPA reiterates the position set forth in its prior rulemaking actions and in the January 10, 2001 (66 FR 1925) proposed rulemaking for the Pittsburgh area. Subpart 2 of part D of Title I of the Act contains various air quality planning and SIP submission requirements for ozone nonattainment areas. EPA believes it is reasonable to interpret the provisions regarding Reasonable Further Progress (RFP) and attainment demonstrations, along with other certain other related provisions, not to require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (i.e., attainment of the NAAQS demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). EPA interprets the general provisions of subpart 1 of part D of Title I (sections 171 and 172) not to require the submission of SIP revisions concerning RFP, attainment demonstrations or section 172 (c)(9) contingency measures. As explained in a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Area Meeting the Ozone National Ambient Air Quality Standard,'' dated May 10, 1995, EPA believes it is appropriate to interpret the more specific attainment demonstration and related provisions of subpart 2 in the same manner. See *Sierra Club* v. *EPA,* 99 F. 3d. 1551 (10th Cir. 1996).

The attainment demonstration requirements of section 182(b)(1) requires that the plan provide for ''such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under the CAA.'' If an area has, in fact, monitored attainment of the relevant NAAQS, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I. As EPA stated in the General Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached'' (57 FR 13564). Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Similar reasoning applies to other related provisions of subpart 2. The first of these are the contingency measure requirements of section 172(c)(9) of the Act. EPA has previously interpreted the contingency measure requirements of section 172(c)(9) as no longer being applicable once an area has attained the standard since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date'' (57 FR 13564).

The state must continue to operate an appropriate network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the ozone standard must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in EPA's Aerometric Information Retrieval System (AIRS).

EPA has reviewed the ambient air monitoring data for ozone (consistent with the requirements contained in 40 CFR part 58 and recorded in EPA's AIRS) for the Pittsburgh moderate ozone nonattainment area from the 1998 to 2000 ozone seasons. Monitoring data for the 2001 ozone season shows that the area continues to attain the 1-hour ozone NAAQS. On the basis of this review, EPA had determined that the area has attained the 1-hour ozone standard during the 1998–2000 period (and has continued to do so, to date, in 2001), and therefore is not required to submit an attainment demonstration and a section 172(c)(9) contingency measure plan, nor does it need any other measures to attain the 1-hour ozone standard.

EPA does not need to evaluate the attainment demonstration that the Commonwealth has previously adopted, because it is not necessary for this action, and is no longer a requirement for the Pittsburgh area, because the area has attained the 1-hour ozone NAAQS.

It is also important to note that the Commonwealth has a fully approved 15 percent plan for the Pittsburgh area. (66 FR 17634) (April 3, 2001).

(2) An ''All Reasonably Available Control Measures'' (RACM) Analysis

Comment: One commenter asserts that EPA has not approved a demonstration that the SIP provided for implementation of all reasonably available control measures as expeditiously as practicable, 42 U.S.C. 7502(c)(1), nor has the state met this requirement for Pittsburgh. The commenter states that EPA has no authority to waive this requirement, which is in addition to the requirement to demonstrate timely attainment.

Response: No additional RACM controls beyond what are already required in the SIP are necessary for redesignation to attainment. The General Preamble, April 16, 1992 (57 FR 13560), explains that section 172 (c)(1) requires the plans for all nonattainment areas to provide for the implementation of RACM as expeditiously as practicable. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement those measures that are reasonably available and necessary to attain as expeditiously as practicable. Because attainment has been achieved, no additional measures are needed to provide for attainment.

The suspension of the attainment demonstration requirements pursuant to our determination of attainment include the section 172(c)(1) RACM requirements as well. The General Preamble treats the RACM requirements as a ''component'' of an area's attainment demonstration. Thus, the suspension of the attainment demonstration requirement pursuant to our determination of attainment applies to the RACM requirement, since it is a component of the attainment demonstration.

(3) Reasonably Available Control Technology (RACT)

Comment: Several commenters state that the Act explicitly requires that the SIP mandate RACT for all VOC sources within the nonattainment area, including each category of VOC sources covered by Control Technique Guideline (CTG) documents. 42 U.S.C. 7502(c), 7511a (b)(2). The commenters point out that EPA concedes that the requirement to fully approve the RACT SIP has not been met as of the date of the redesignation proposal.

Several commenters state that the Commonwealth has not adopted source category RACT rules for all CTG categories including: aerospace, synthetic organic compound manufacturing, reactor and distillations processes, shipbuilding, wood furniture, large petroleum dry cleaners, air oxidation processes in synthetic organic chemical manufacturing industries, equipment leaks from natural/gas gasoline processing plants, and a number of others. One commenter postulates that EPA will suggest that it will require source specific RACT for all sources within each category before finalizing the redesignation proposal and the commenter asserts that this approach circumvents the mandate to adopt RACT for each category of VOC sources covered by CTG documents. This commenter goes on to say the these category RACTs were to have been adopted and complied with years ago and EPA cannot retroactively deem the SIP to be in compliance with part D.

Several commenters assert that if EPA intends to grant the state's redesignation request based on potential future EPA approvals of state RACT determinations, then it will deprive the public of the opportunity to offer fully informed comment as to whether the plan as a whole meets all of the applicable requirements of section 110 and part D of the Act, as well as the appropriateness of their inclusion in the redesignation.

Response: The Pittsburgh area has satisfied all applicable ozone requirements and has a fully approved ozone SIP. In acting upon a redesignation request, EPA may rely on any prior SIP approvals plus any additional approvals it may perform in conjunction with acting on the redesignation. EPA has already taken final action to approve all required SIP elements or is approving them in conjunction with this final action on the redesignation. Therefore, the Pittsburgh area has a fully approved SIP. See ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992, page 3. The Calcagni memorandum allows for approval of SIP elements and redesignation to occur simultaneously, and EPA has frequently taken this approach in its redesignation actions. See (61 FR 20458) (Cleveland-Akron-Lorain, Ohio May 7, 1996); (60 FR 37366) (July 20, 1995), (61 FR 31832–31833((June 21, 1996) (Grand Rapids, MI).

In our proposed redesignation on May 30, 2001, we stated that we would not take final action to redesignate Pittsburgh until it had taken all actions necessary for EPA to convert the limited approval of the generic RACT regulation to a full approval for the Pittsburgh area. Since our proposal, EPA has taken final action approving the source-specific SIP revisions submitted by the Commonwealth for all the sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland counties. On August 24, 2001, EPA proposed to convert the limited approval of the Commonwealth's NO_X and VOC RACT regulation to full approval in the Pittsburgh area. EPA has taken final action on that proposal and converted the limited approval of the Commonwealth's NO_X and VOC RACT regulation to full approval. The Commonwealth has met the requirements of the Act's RACT provisions for the Pittsburgh area.

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 requirement, referred to as the non-CTG VOC RACT requirement, clearly does not require category-specific RACT rules. 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 (including the requirements for CTG RACT) 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 individual 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.

While EPA believes that the Commonwealth was not obligated to impose RACT via the adoption of VOC source category rules for the reasons provided above, nonetheless, EPA has approved the Commonwealth's VOC source category rules for aerospace (June 25, 2001, 66 FR 33645) and for wood furniture (July 20, 2001, 66 FR 37908).

In a letter from the PADEP (then the Pennsylvania Department of Environmental Resources), dated April 19, 1993, the Commonwealth made negative declarations for the CTG source categories of large petroleum dry cleaners, and equipment leaks from natural gas/gasoline processing plants. The Commonwealth made a negative declaration on September 28, 2001 for point source shipbuilding emissions in the counties of Armstrong, Butler, Beaver, Fayette, Washington, and Westmoreland. The Allegheny County Health Department (ACHD) made a negative declaration on September 27, 2001, for subject shipbuilding sources in Allegheny County.

The public has had opportunity to comment on three occasions on the generic RACT rule. In addition, EPA provided comment periods for its approval of each source specific rule, as well as for each of the category rules. Furthermore, EPA recently published approval notices for all remaining case specific RACT determinations for sources located in the Pittsburgh area and the public did indeed exercise their right to comment on those proposed actions. EPA disagrees that the public has not had adequate opportunity to offer fully informed comment as to whether the plan submitted by the Commonwealth meets all of the applicable requirements of section 110 and part D of the Act. The public has had ample opportunity to comment on the RACT regulations adopted by the Commonwealth, and EPA is entitled to rely on these previously-approved rules in determining that the State has a SIP that meets those applicable requirements. See *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989 (6th Cir. 1998).

EPA disagrees with the commenter that it is ''retroactively'' deeming that the State has complied with the RACT requirements of the Act. With respect to many of these source-specific rules, the source has been subject to and complying with the requirements for an extended period of time. Simply because EPA is only now taking action on those rules does not mean that the State or the source failed to meet the statutory RACT obligation. Finally, to the extent that the State and/or the source is late in meeting the statutory RACT obligation, EPA does not believe that Congress intended that such an area could never be redesignated to attainment, as the commenter appears to suggest. At this point, the best such an area can do is to meet the requirement as quickly as possible—the area cannot retroactively comply. Thus, EPA believes that Congress intended that once such an area complied with the statutory requirements—as is the case with Pittsburgh—the area may be redesignated.

(4) New Source Review (NSR)

Comment: We received several comments regarding NSR and its approval into the SIP. The commenters assert that the Act explicitly requires the SIP to include a preconstruction permit program for new sources and modifications within the nonattainment area. (42 U.S.C. section 7410(a)(2)(C), 7502(c)(4)&(5), 7503, 7511a(a)(2)(C), (b)(5)). The commenters assert that the NSR program should not be approved without an approved attainment demonstration in the Pittsburgh area. One commenter also asserts that EPA cannot approve the Commonwealth's rule without first promulgating ''Alternative 2'' of the federal NSR rule revision. This commenter also asserts that approval of the Commonwealth's NSR program is in conflict with section 184 of the Act, because the Commonwealth's NSR rule does not require the same offset credit restrictions in the marginal and attainment areas as required by section 184 of the Act. One of the commenters also contends that the NSR program's conditional approval status has expired and should already have been converted to a disapproval. This commenter also asserts that the EPA-required restrictions on shutdown credit are lacking in the program.

Response: As indicated, pursuant to EPA's issuance of an attainment determination for the Pittsburgh area, an approved attainment demonstration is no longer an applicable requirement. EPA has, however, now fully approved the NSR program for the Pittsburgh area. On May 2, 1997, EPA proposed to grant limited approval of Pennsylvania's NSR program (62 FR 24060). On December 9, 1997 (62 FR 64722) EPA published its final rule granting limited approval of Pennsylvania's NSR program and incorporated 25 Pa. Code of Regulations, Chapter 127, Subchapter E, Subsections 127.201 through 127.217, inclusive, by reference into the Pennsylvania SIP. (See 40 CFR part 52 at 52.2020(c)(107).) The proposed and final actions provided a detailed description of how the Commonwealth's NSR regulations satisfy the requirements of sections 172, 173, 182 and 184 of the Act. As explained in section I. C. of the May 2, 1997 notice of proposed rulemaking (62 FR 24061), under section 184 of the Act, the preconstruction permitting requirements applicable to moderate ozone nonattainment areas apply to ozone attainment areas and to marginal and moderate ozone nonattainment areas in the Commonwealth because Pennsylvania is located in the Ozone Transport Region (OTR). Section II. A. of the May 2, 1997 proposal (62 FR 24062) explicitly states that Pennsylvania's NSR requirements for moderate ozone nonattainment areas apply throughout Pennsylvania with the exception of the Philadelphia severe ozone nonattainment area. Subsections 127.203, 127.208, and 127. 210 of the Commonwealth's SIP-approved regulations, in particular, satisfy section 184 of the Act by imposing the same offset-related requirements to attainment, and marginal nonattainment areas of the Commonwealth as those applicable to moderate ozone nonattainment areas.

On December 9, 1997, when EPA approved Pennsylvania's NSR regulations into the SIP, its sole reason for granting limited approval, rather than full approval, of Pennsylvania's NSR regulations was that they do not contain certain restrictions on the use of emission reductions from the shutdown and curtailment of existing sources or units as NSR offsets. These restrictions apply in nonattainment areas without an approved attainment demonstration (see 40 CFR part 51.165(a)(ii)(C)). (The submittal and approval of an attainment demonstration is not required by the Act for ozone nonattainment areas classified as marginal, nor is it required in areas designated as attainment for ozone.) As

EPA is, by this action, approving the attainment determination for the Pittsburgh area proposed on January 10, 2001 (66 FR 1925), approval of an attainment demonstration is not a requirement for the Pittsburgh area. Pursuant to EPA's determination of attainment, an attainment demonstration is no longer required, and thus similarly, an approved ozone attainment demonstration is no longer required under the NSR provisions for ozone. Since the premise of 40 CFR 51.165(a)(ii)(C)(1), that an attainment demonstration is required, does not exist, EPA concludes that the regulation should be interpreted so as not to require an approved attainment demonstration where no attainment demonstration is required. Therefore, EPA has determined that it is appropriate, at this time, to grant full approval of the Commonwealth's NSR regulations as they apply throughout the Commonwealth with the exception of the five-county Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. That area is the only portion of the Commonwealth where the approval of an attainment demonstration is still required. EPA intends to take rulemaking action to grant full approval of the Commonwealth's NSR regulations in the five-county Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area at such time as that area has an approved attainment demonstration.

It should be noted that when EPA proposed to remove the limited nature of its approval of the Commonwealth's NSR program on May 30, 2001, it clearly was not taking action to re-approve Pennsylvania's entire NSR program. Therefore, not only does EPA disagree with the comments that the Commonwealth's NSR regulations fail to satisfy the Act and the current Federal NSR-related requirements for nonattainment areas found at 40 CFR Subpart I, EPA does not believe that such comments are timely.

Because Pennsylvania's NSR regulations satisfy the current federal NSR-related requirements for nonattainment areas found at 40 CFR Subpart I, EPA disagrees with the comment that it cannot grant approval of the Commonwealth's NSR without first promulgating ''Alternative 2'' of the proposed revisions to the federal NSR rules. The commenter's reference to Alternative 2 refers to language in the July 23, 1996 NSR rulemaking proposal which has not been finalized, and therefore the Agency believes that it is not currently an applicable NSR requirement.

EPA did not grant the Commonwealth's NSR program a conditional approval, and, therefore disagrees with the comment that any conditional approval has expired and should have been converted to a disapproval.

Even if the NSR program for Pittsburgh were not fully approved the area would still qualify for redesignation, since EPA has previously interpreted the Clean Air Act as not requiring a fully approved NSR program for redesignation of an area subject to the section 184 transport requirements. EPA has set forth its rationale for its interpretation that NSR and other section 184 ozone transport requirements are inapplicable for redesignation purposes in its proposed and final rulemakings on Reading, Pennsylvania. See 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826–24834 (May 7, 1997), which are incorporated herein by reference.

(5) Conformity

Comment: Several commenters asserted that the SIP does not include fully approved transportation conformity procedures that comply with Part D of the Act under section 176, and that EPA has no authority to waive this requirement for SIPs. One commenter argues that the Commonwealth is still obligated to submit such procedures and the fact that federal procedures apply does not excuse failure to adopt conformity procedures as required by the statute. The commenter contends that the Act allows redesignation to attainment only when EPA has fully approved the SIP and the state has met all requirements applicable to the area under section 110 and Part D.

Response: The Commonwealth of Pennsylvania has met the statutory requirement for submitting approvable general conformity procedures. EPA approved the Pennsylvania general conformity rules effective September 29, 1997 (62 FR 50870).

Section 176(c) provides that state conformity revisions must be consistent with Federal conformity regulations that the CAA requires EPA to promulgate. The Federal general conformity regulations were finalized on November 30, 1993, and the Federal transportation conformity regulations were finalized on November 24, 1993. The Federal general conformity regulations have remained the same since that time, but the Federal transportation conformity regulations have been amended several times since 1993.

The Federal transportation conformity regulations were amended on August 15, 1997 (40 CFR parts 51 and 93 Transportation Conformity Rule Amendments: Flexibility and Streamlining). Conformity regulations needed to be revised again, due to the March 2, 1999 court decision, *Environmental Defense Fund* v. *EPA,* 167 F. 3d 641 (D.C. Cir. 1999). Pennsylvania submitted transportation conformity rules on November 21, 1994, but EPA has not acted upon the rules and the rules must be revised to be consistent with the amendments EPA made consistent with the court rulings in *EDF.* v. *EPA, supra.*

EPA believes, however, that it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the redesignation request under section 107(d). The rationale for this is two-fold. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Clean Air Act continues to apply to areas after redesignation to attainment, since these areas would be subject to a Section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of federally approved State rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. See, for example, Grand Rapids redesignation at 61 FR 31835–31836 (June 21, 1996) and the Cincinnati redesignation at 65 FR 37879, 37885–37886 (June 19, 2000). EPA has explained its rationale and applied this interpretation in numerous redesignation actions. See, Tampa, Florida and Cleveland-Akron-Lorain redesignations (60 FR 52748) (December 7, 1995), and (61 FR 20458) (May 7, 1996), respectively. Consequently, EPA may approve the ozone redesignation request for the Pittsburgh area notwithstanding the lack of a fully approved conformity SIP. The United States Court of Appeals for the sixth Circuit has recently upheld EPA's interpretation in *Wall* v. *Environmental Protection Agency,* no. 00–4010, slip. op. at 21–24 (6th Cir. Sept. 11, 2001). The Court upheld EPA's determination that ''failure to submit a revision * * * that meets the part D transportation-conformity submissions requirements is not a basis to deny'' redesignation to attainment. *Id.* at 24.

(6) Approval of the NO_X SIP Call

Comment: A commenter states that the SIP must include provisions to prohibit emissions that will contribute significantly to nonattainment in, or interfere with maintenance by any other State under 42 U.S.C. section 7410(a)(2)(D)(I). The commenter asserts that EPA has specifically determined that emissions from Pennsylvania contribute significantly to ozone nonattainment in downwind states and has issued a SIP call to require additional NO_X controls in the Pennsylvania SIP to address this problem. The commenter asserts that EPA has not fully approved the state's rule to meet the SIP call requirements, thus the SIP is not yet fully approved.

Response: EPA believes that submissions under the NO_X SIP call should not be considered applicable requirements for purposes of evaluating a redesignation request. That said, EPA has fully approved the Commonwealth's NO_X SIP call rule on August 21, 2001 (66 FR 43795) as meeting the portion of the SIP call rule that were not remanded by the Court in *Michigan* v. *EPA,* 213 F. 3d. 663 (D.C. Cir. 2000).

The NO_X SIP call requirements are not linked with a particular nonattainment area's designation and classification. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the requirements that are the relevant measures to evaluate in reviewing a redesignation request. The NO_X SIP call submittal requirements continue to apply to the States regardless of the designation of any one particular area in these States.

Thus, we do not agree that the NO_X SIP call submission should be construed to be an applicable requirement for purposes of redesignation. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania proposed and final rulemakings (61 FR 53174–53176) (October 10, 1996), (62 FR 24826) (May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458) (May 7, 1996); and Tampa, Florida final rulemaking at (60 FR 62748, 62741) (December 7, 1995). See also the discussion on this issue in the Cincinnati redesignation (65 FR 37890) (June 19, 2000).

(7) Photochemical Grid Modeling and Favorable Meteorology

Comment: The commenter asserts that neither the states nor EPA have shown that air quality improvements are due to permanent and enforceable emission reductions, as required by 42 U.S.C. 7407(d)(3)(E)(iii). The commenter takes issue with the finding that this criteria is met because, although the Commonwealth has adopted measures that have produced some emission reductions, the commenter believes that EPA has not demonstrated that these reductions are responsible for the area's improved air quality or the absence of violations. The commenter claims that the only way to reliably make such a showing would be through photochemical grid modeling. The commenter states that no such modeling is presented or discussed in this proposal and that given the complex chemistry and meteorology of ozone formation, the combination of NO_X and VOC emission reductions that might be attributable to the cited measures could just as easily lead to increases in ozone concentrations. The lack of violations in 1998–2000, the commenter states, could just as well be due to weather patterns or changes in transport of ozone precursors. Without modeling to determine the actual impact of adopted and enforceable controls, the commenter finds EPA's claim that the area has attained the NAAQS, to be speculative.

Another commenter asserted the area was aided in attainment by a 2000 ozone season in which there were no temperatures which exceeded 90 degrees Fahrenheit.

Response: As provided in longstanding EPA policies, we believe that photochemical grid modeling is not necessary to show that the improvement in air quality is due to permanent and enforceable emissions reductions. See General Preamble for the Interpretation of Title I of the CAA Amendments of 1990, (57 FR 13496) (April 16, 1992), supplemented at 57 FR 18070 (April 28, 1992); ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992; ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993; and ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993. Our policies provide that an area may meet this requirement by showing how its ozone precursor emissions changed due to permanent and enforceable emissions reductions from when the area was not monitoring attainment of the 1-hour ozone NAAQS to when it reached attainment. See the rational set forth in the Cincinnati redesignation (65 FR 37879, 37886–37889) (June 19, 2000). The sixth Circuit has recently upheld EPA's interpretation in *Wall* v. *EPA*, *supra,* slip. op at 16–20.

Reductions in ozone precursor (VOC and NO_X) emissions have brought many areas across the country into attainment. EPA has approved many ozone redesignations showing decreases in ozone precursor emissions resulting in attainment of the ozone standard. See redesignations for Charleston (59 FR 30326, June 13, 1994; 59 FR 45985, September 6, 1994), Greenbrier County (60 FR 39857, August 4, 1995), Parkersburg (59 FR 29977, June 10, 1994); (59 FR 45978, September 6, 1994), Jacksonville/Duval County (60 FR 41, January 3, 1995), Miami/Southeast Florida (60 FR 10325, February 24, 1995), Tampa (60 FR 62748, December 7, 1995), Lexington (60 FR 47089, September 11, 1995), Owensboro (58 FR 47391, September 9, 1993), Indianapolis (59 FR 35044, July 8, 1994; 59 FR 54391, October 31, 1994), South Bend-Elkhart (59 FR 35044, July 8, 1994; 59 FR 54391, October 31, 1994), Evansville (62 FR 12137, March 14, 1997; 62 FR 64725, December 9, 1997), Canton (61 FR 3319, January 31, 1996), Youngstown-Warren (61 FR 3319, January 31, 1996), Cleveland-Akron-Lorain (60 FR 31433, June 15, 1995; 61 FR 20458, May 7, 1996), Clinton County (60 FR 22337, May 5, 1995; 61 FR 11560, March 21, 1996), Columbus (61 FR 3591, February 1, 1996), Kewaunee County (61 FR 29508, June 11, 1996; 61 FR 43668, August 26, 1996), Walworth County (61 FR 28541, June 5, 1996; 61 FR 43668, August 26, 1996), Point Coupee Parish (61 FR 37833, July 22, 1996; 62 FR 648, January 6, 1997), and Monterey Bay (62 FR 2597, January 7, 1997). Most of the areas that have been redesignated to attainment for the 1-hour ozone standard have continued to attain it. Areas that are not maintaining the 1-hour ozone standard have a maintenance plan to bring them back into attainment.

Reductions in ozone precursor emissions have been shown in photochemical grid modeling to reduce

ambient ozone concentrations in areas across the country. Between 1990 and 1999 area-wide VOC and NO_X emissions in the Pittsburgh area decreased by 16% and 30%, respectively. These emissions reductions are due to point source reductions such as RACT, additional NO_X controls, 111(d) plans and National Emission Standards for Hazardous Air Pollutants (NESHAPS) which reduce VOCs, Prevention of Significant Deterioration (PSD), and NSR. Additional controls are implemented for the following categories: Automobile refinish coatings, consumer products, architectural and industrial maintenance coatings, wood furniture coatings, aircraft surface coating, marine surface coatings, metal furniture coatings, municipal solid waste landfills, treatment storage and disposal facilities, and Stage II vapor recovery. Several programs are implemented to reduce highway vehicle emissions, such as the Federal Motor Vehicle Control Program (FMVCP), a Pittsburgh-specific summertime gasoline 7.8 psi volatility limit, and enhanced Inspection and Maintenance (I/M). Nonroad source programs include Federal rules for large and small compression-ignition engines, small spark-ignition engines, and recreation spark-ignition marine engines.

Ozone air quality monitoring data show that the design value changed from 0.149 parts per million (during the 1987–1989 time period) to 0.123 parts per million (during the 1998–2000 time period). The number of expected exceedances declined from 7.0 days per year during 1987–1989 to 1.0 days per year during 1998–2000. This shows that reductions in ozone concentrations correspond to the reduction in ozone precursors emissions in the area.

The commenter claims that the combination of NO_X and VOC emissions reductions could just as easily have led to increases in ozone. However, the actual monitoring data collected in the area shows that ambient ozone concentrations have dropped when this combination of ozone precursor reductions occurred. In other metropolitan areas, other levels of VOC and NO_X reductions have also resulted in attainment. See areas listed above in first part of this response. The Pittsburgh area's decrease in ozone levels is consistent with what other areas have experienced. The commenter has not provided data showing that decreases in ozone precursor emissions have led to higher levels of ozone.

The commenter claims that the lack of violations during 1998–2000 could be due to weather patterns or changes in transport of ozone precursors, but does not point to any evidence to support this conclusion. We use a three year period of air quality to account for changes in weather conditions that can occur from year to year. Weather condition may have a substantial effect on ozone concentrations, both in terms of increasing ozone and decreasing ozone. However, this effect is not controllable and EPA uses a three year average to account for changes in meteorology. In the case of the Pittsburgh area, the fact that from 1999 to today the area continues to be in attainment of the ozone standard increases our confidence that weather is not a controlling factor in the area's attainment. Furthermore, during the weeks of August 5th and August 12th of 2001, the Pittsburgh area experienced multi-day meteorological episodes in which the temperatures exceeded 90 degrees, and the ambient ozone levels stayed well below the standard at each monitor.

(8) Use of Accurate and Current Emission Inventory

Comment: One Commenter questions whether the Commonwealth used current and accurate emissions inventories in the analysis to determine maintenance of the 1-hour *NAAQS.*

Response: The Commonwealth used current and accurate emissions inventories. The Commonwealth uses the 1999 emissions inventory as a base year emissions inventory for demonstrating that emissions during the 10 year maintenance period will stay below attainment year levels. The 1999 inventory is the appropriate inventory to be used to demonstrate maintenance of the NAAQS, because the 1999 inventory is a representation of emission levels during the time the area has attained the NAAQS. EPA converted the conditional approval of the Commonwealth's 1990 base year VOC inventory to full approval on April 3, 2001 (66 FR 17634). On May 30, 2001 EPA proposed to approve the 1990 NO_X base year inventory. EPA did not received comments specific to the 1990 NO_X base year inventory and today is fully approving the Commonwealth's base year NO_X inventory. These 1990 base year NO_X and VOC emissions inventories are approved for use in projecting current inventories and out year inventories.

B. Comments Related to the Maintenance Plan

Comment: A commenter asserts that the plan does not demonstrate maintenance for ten years as required by sections 107(d)(3)(E)(iv) and 175A of the Clean Air Act. The commenter says that EPA proposes to find maintenance not on the basis of modeling, as required by the CAA, but on the presumption that the area will always be in attainment if emissions remain at or below estimated 1999 levels. The commenter asserts that such a presumption is not rationally supportable, pointing out that the area violated the NAAQS in the 1997–1999 period. Therefore, the commenter reasons, holding emissions to 1999 levels does not assure attainment. The commenter states that, even assuming the emission reductions predicted by the states for 1999 and subsequent years, there is no technical analysis in the record demonstrating that those emission levels will assure maintenance. The commenter contends that such a demonstration requires photochemical grid modeling that accounts for the kinds of weather conditions and transport impacts experienced on appropriately chosen design days. According to the commenter, until EPA approves such a modeling demonstration, it cannot approve the maintenance plan.

The commenter states that the history of this nonattainment area shows that EPA cannot rationally assume that emission levels correlate with ozone levels in a linear or consistent fashion; the area has gone in and out of attainment over the past 10 years while local emission were supposedly declining. The commenter asserts that there is no reason to believe that the state's attainment inventory approach toward projecting future maintenance is any more reliable now than it was in 1993. The commenter states that the state itself asserts that the area cannot maintain compliance with the standard solely through local reductions and will only be able to maintain the NAAQS through reductions from Ohio and West Virginia.

Response: We believe that the monitoring shows that the current level of emissions is adequate to keep the area in attainment. The following table summarizes the number of expected exceedances at each monitor in the area for 1974 to 2000 for each three year period. A monitor has to measure more than 1.0 average expected exceedances over a three year period to cause a violation of the 1-hour ozone standard (Expected exceedances take into account actual monitored exceedances and account for days where there is missing data or the data was invalidated.) See 40 CFR 50.9 and Appendix H. The table shows that the number of exceedances have decreased from what was monitored in the late 1970's.

TABLE 1.—1-HOUR OZONE NAAQS EXPECTED EXCEEDANCES IN THE PITTSBURGH AREA FROM 1974 TO 2000

Year	Design monitor	Average expected exceedances per year
1974–1976 ..	Baden	6.5
1975–1977 ..	Beaver Falls ...	5.7
1976–1978 ..	Beaver Falls ...	13.2
1977–1979 ..	Beaver Falls ...	11.7
1978–1980 ..	Lawrenceville	9.2
1979–1981 ..	Lawrenceville	6.1
1980–1982 ..	Lawrenceville	3.4
1981–1983 ..	Brackenridge ..	4.4
1982–1984 ..	Brackenridge ..	2.9
1983–1985 ..	Brackenridge ..	2.4
1984–1986 ..	Midland	0.8
1985–1987 ..	Brackenridge ..	1.7
1986–1988 ..	Brackenridge ..	6.6
1987–1989 ..	Brackenridge ..	7.0
1988–1990 ..	Brackenridge ..	5.6
1989–1991 ..	Lawrenceville	0.7
1990–1992 ..	Lawrenceville	0.3
1991–1993 ..	Harrison Township.	0.7
1992–1994 ..	Harrison Township.	0.7
1993–1995 ..	Harrison Township.	3.0
1994–1996 ..	Harrison Township.	2.7
1995–1997 ..	Harrison Township.	3.3
1996–1998 ..	Charleroi	1.0
1997–1999 ..	Penn Hills	1.3
1998–2000 ..	Charleroi	1.0

The area has monitored attainment for the three year period from 1998–2000 and continues to monitor attainment in 2001. This demonstrates that the current level of emissions is adequate to keep the area in attainment during weather conditions as in past years associated with higher levels of ozone. In addition, the Act does not presume that the area will always be in attainment. The Act provides that if the area were to violate the 1-hour ozone standard, then the contingency measures in the maintenance plan would be triggered. This would reduce the ozone precursor emissions and bring the area back into attainment.

Our policy allows areas to prepare an attainment emissions inventory corresponding to the period when the area monitored attainment. It also allows areas to project maintenance by showing that future emissions will stay below the attainment emissions inventory. See ''Use of Actual Emission in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993. The attainment inventory estimates 1999 emissions, which is within the 1998–2000 time period of attainment. Emissions are projected to remain below this level for the next 10 years.

Holding emissions at or below the level of the attainment inventory is adequate to reasonably assure continued maintenance of the 1-hour ozone standard. Reductions in ozone precursor emissions have been shown in photochemical grid modeling to reduce ambient ozone concentrations in areas across the country. Photochemical grid modeling is not needed to show that the area has attained or will maintain the standard. The air quality will be maintained by keeping below the attainment emissions level, continuing to monitor ozone levels, and having maintenance plan contingency measures available. Reductions in ozone precursor emissions have brought many areas across the country into attainment.

Many of the ozone areas for which EPA has approved ozone redesignations have used an emissions inventory approach to demonstrate maintenance. The majority of areas have continued to maintain the 1-hour ozone standard using that approach. See redesignations cited in the response provided at II. A (7) of this document. See also discussion at (65 FR 37887–37889) (June 19, 2000) Cincinnati-Hamilton, and *Wall* v. *EPA*, supra, at 16–20. Emissions inventories can be used to project maintenance of the 1-hour ozone standard. As previously stated, if the attainment level of emissions is not adequate to protect against a violation and the area monitors a violation, then the contingency measures in the maintenance plan would be triggered to bring the area back into attainment. There are ozone monitors located in the Pittsburgh area to ensure that the area's air quality remains below the level set by the 1-hour ozone standard.

The comment that EPA should not assume that ''emission levels correlate with ozone levels in some sort of linear or consistent fashion'' is in effect a recommendation that future maintenance be tested assuming meteorological conditions that are more conducive to ozone formation than the conditions that have prevailed in 1998 to 2000. No factor other than meteorological conditions is known to introduce an inconsistency between ozone and emissions. The commenter protests that the area has not submitted a maintenance demonstration based on ozone modeling, and implicitly urges that the modeling assume 1997-type conditions, or worse. However, if a prospective maintenance demonstration were performed with an ozone photochemical model following EPA guidance, the modeling would be allowed to use episode days from the 1998–2000 period, not 1997. It is highly likely, if not certain, that the outcome would be a conclusion that attainment will be preserved through the required 10-year period. EPA believes this modeling guidance is reasonable and appropriate.

In response to the commenter's assertion that the Commonwealth does not believe that it can maintain the NAAQS without reductions from upwind states such as Ohio and West Virginia, both EPA and the Commonwealth recognize the importance of the full implementation of the NO_X SIP call to provide additional air quality benefit to the Pittsburgh area. Furthermore, as the D.C. Circuit has largely upheld the NO_X SIP call, it is eminently reasonable to expect that the reductions in states upwind of Pittsburgh will occur.

C. Comments Related to the Enforceability and Permanence of Control Measures

(1) *Comment:* Several commenters express doubts that certain of the programs relied upon in the maintenance plan will remain permanent and enforceable in the Commonwealth and asserts that EPA simply assumes that the measures relied on for continued and future emissions reductions will continue to be implemented. Related comments express concerns over the permanence of the enhanced I/M and NSR programs.

Response: The Act requires the area to have a fully approved SIP and to have met all of the applicable requirements of the Act. The area's SIP satisfies these requirements as described in EPA's proposed rulemaking published on May 30, 2001 (66 FR 29270). The measures that the Commonwealth is relying on to maintain the 1-hour ozone standard have been approved into the SIP and are state and Federally enforceable. The state must continue to implement these measures as provided for in the Federally approved SIP. Furthermore, the Act does not require a separate level of enforcement for a maintenance plan as a prerequisite to redesignation. The enforcement program approved for and applicable to the SIP as a whole also applies to the maintenance plan. See discussion in the Cincinnati redesignation (65 FR 37879, 37881–37882), and sixth Circuit decision in *Wall* v. *EPA,* supra, at 20–21, upholding EPA's interpretation of the requirement.

All of the control measures which the Commonwealth relied upon to generate the 1999 and future emission levels, inventories are SIP-approved measures,

including the enhanced I/M and NSR programs. These programs have been legally adopted by the Commonwealth and EPA has approved them into the Pennsylvania SIP. EPA cannot withhold its approval of the maintenance plan submitted by the Commonwealth because of concerns that Pennsylvania may, at some future time, either submit a SIP revision to amend or remove a program, or that the Commonwealth may fail to implement these programs in the Pittsburgh area. The Federally approved SIP requirements remain in place, and enforceable until such time as EPA takes action to approve SIP revisions to amend or remove them. This can only be done via Federal rulemaking, which includes procedures for public comment and review. In addition, if the state fails to implement the approved SIP, Section 179 provides for EPA to impose sanctions.

EPA has recently promulgated rules for On-Board Diagnostics (OBD) testing provisions for 1996 and newer vehicles in existing I/M programs. The Commonwealth's currently approved enhanced I/M SIP requires Pennsylvania to implement OBD as part of its I/M program in the Pittsburgh area in accordance with the Federal rule. Any changes the Commonwealth makes with respect to the I/M program must ensure an equivalent level of emission reductions as is currently credited. Again, any changes made to the Federally approved and enforceable program would need to go through Pennsylvania's formal regulatory adoption process and EPA's SIP approval process, ensuring ample public participation opportunity.

Likewise, any changes to the Commonwealth's SIP-approved NSR program would need to go through Pennsylvania's formal regulatory adoption process and EPA's SIP approval process, ensuring ample public participation opportunity. In order to be approvable, any such changes would have to ensure that the construction of major new sources and major modifications in the Pittsburgh area would not interfere with the approved maintenance plan.

Furthermore, any changes made by the Commonwealth to SIP approved measures would require EPA approval in accordance with section 110 (l) of the Act.

(2) Comment: We received a comment asserting that the maintenance plan is not approvable because it lacks enforcement programs and commitments of resources as required by the Act 42 U.S.C. § 7410(a)(2)(E).

Response: EPA disagrees with the commenter's assertion that states must provide such information with each SIP revision. *See Wall* v. *EPA, supra.* Although Clean Air Act sections 110(a)(2)(E) and 110(a)(2)(C) do contain these provisions, section 110(a)(2)(H) is the statutory provision which governs requirements for individual plan revisions which States may be required to submit from time to time. There are no cross-references in section 7410(a)(2)(H) to either 7410(a)(2)(E) or 7410(a)(2)(C). Therefore, EPA concludes that Congress did not intend to require States to submit an analysis of adequate funding and enforcement with each subsequent and individual SIP revision submitted under the authority of section 110(a)(2)(H). Once EPA approves a State's SIP as meeting section 110(a)(2), EPA is not required to reevaluate that SIP for each new revision to the plan to meet additional requirements in later sections of the Act. The Commonwealth of Pennsylvania had previously received approval of its 110(a)(2) SIPs. See discussion in the Cincinnati redesignation of this issue (65 FR 37879, 37881–37882) (June 19, 2000). The sixth circuit has upheld EPA's interpretation in *Wall* v. *EPA, supra*, at 20–21.

In a final rulemaking action published on February 26, 1985 (50 FR 7772, 7776), EPA approved Pennsylvania's financial and manpower resource commitments, after having proposed approval of these commitments on February 3, 1983 (48 FR 5096, 5101). This approval action reaffirmed EPA's May 20, 1980 (45 FR 33607) approval of these resource commitments for the Pittsburgh area portion of the Pennsylvania ozone nonattainment SIP.

Neither this commenter nor any other person has submitted substantive comments that would lead EPA to separately analyze whether it should call on Pennsylvania to revise its section 110(a)(2) SIPs regarding enforcement and funding.

D. Comments Related to Contingency Measures

(1) Comment: Several commenters assert that the maintenance plan lacks adequate contingency provisions including a plan for the schedule of adoption, description of measures, or quantification of reductions of the measures to be implemented should the area violate the standard. One commenter also asserts that the plan does not contain adequate provisions to adopt additional measures should inventory tracking indicate that a future violation is possible. The commenter states that future inventory analyses indicating possible violations should trigger the contingency measures. Commenters state that the plan makes no showing that the model VOC rules currently under consideration for the Philadelphia nonattainment area will assure correction of any violations in the Pittsburgh area and that these measures are only under consideration. One commenter states that the VOC measures referenced by the Commonwealth provide no estimation of reductions that would be achieved in Pittsburgh should these measures be adopted and that adoption of these measure could take up to two years.

One commenter asserts that the maintenance plan submitted by the Commonwealth does not contain a mandatory commitment to implement all ozone-control measures in the SIP prior to redesignation. The commenter contends that this commitment is required, regardless of whether or not the state is currently implementing all measures and EPA does not have the discretion to approve the maintenance plan without this commitment.

Response: EPA disagrees that the Commonwealth's maintenance plan for the Pittsburgh area lacks adequate contingency provisions should the area violate the standard. Page 43 of the maintenance plan specifically states that if a violation occurs, the Commonwealth will adopt additional emission reductions, as expeditiously as practicable, in accordance with the Pennsylvania Air Pollution Control Act to return the area to attainment with the health-based one-hour ozone standard. Page 44 of the maintenance plan clearly states that its contingency plan measures include four of the model rules currently being considered as additional measures for the Philadelphia ozone nonattainment area. The plan specifically states that these VOC model rules have the potential to reduce emissions from specific types of sources and source operations, namely consumer products, portable fuel containers, Architectural and Industrial Maintenance (AIM) coatings and solvent cleaning operations. The Commonwealth has provided to EPA estimations of reductions in VOC emissions that would be achieved by adoption of these contingency measures in the seven-county Pittsburgh area. This information has been added to the docket for this final rule.

The Commonwealth has also supplied information that sets forth the schedule for adoption of regulations under the Pennsylvania Air Pollution Control Act, and that information has been placed in the docket of this final action. The schedule indicates that Pennsylvania would move to adopt and implement contingency measures within 12 to 24 months of a violation. The

Commonwealth has also stated that the contingency measures would be implemented in accordance with the requirement of section 175A(d) of the Clean Air Act that they ''promptly correct any violation.'' As stated in the September 4, 1992 Calcagni memorandum, ''For purposes of section 175A, a State is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expediently once they are triggered.'' In light of the language of the maintenance plan, the supplemental information supplied by the Commonwealth, existing EPA guidance and actions regarding contingency measures in other redesignations, and the absence of any suggestion to the contrary from the Commonwealth, EPA is construing the Pittsburgh maintenance plan as embodying a commitment to adopt and implement contingency measures within 12 to 24 months of a violation. The provisions regarding the study and possible choice of contingency measures in the event of an exceedance or increase in the emissions inventory provide further assurance that air quality problems that might occur after redesignation will be promptly corrected.

In the event of a monitored exceedance or if periodic emission inventory updates reveal a greater than 10-percent increase in ozone precursor emissions, the maintenance plan requires the Commonwealth to evaluate whether additional emission controls are needed to prevent a future 1-hour ozone NAAQS violation. EPA views this commitment to be adequate and enforceable. This approach is consistent with the September 4, 1992 Calcagni memorandum, which states that the maintenance plan should ''identify specific indicators, or triggers, which will be used to determine when the contingency measure need to be implemented. * * * The indicators would allow the State to take early action to address potential violations of the NAAQS before they occur.'' See September 4, 1992, Calcagni memo, p. 12. Pennsylvania's plan addresses this requirement by identifying two occurrences that trigger a study to evaluate whether further emission control measures should be implemented. This will allow the Commonwealth to take early action to address future potential violations. It requires the Commonwealth to fully evaluate the current air quality status and control status of the area, and determine if, and what level of, action should be implemented to prevent further air quality deterioration.

As to the comment regarding implementation of SIP measures as contingency measures, EPA does not believe that a further commitment is needed from the Commonwealth to implement as contingency measures all ozone control measures in the SIP prior to redesignation. Section 175(A)(d) requires that ''[s]uch provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State Implementation plan for the area before redesignation of the area as an attainment area.'' There are no measures in the Pennsylvania SIP to which the section 7505(d) commitment language could apply since the Commonwealth has not sought to drop any measures from the portion of the SIP that is being implemented. All measures that are either already implemented or scheduled to be implemented, e.g., the NOX SIP call, are still in the SIP and are required to be implemented. There is thus no need for the state to commit to further implementation in light of the fact that it is required to continue to implement all measures contained in its SIP. Since the section 7505(d) requirement to implement all measure is being satisfied, there is no requirement for an additional commitment. The State could not make any change in implementation of these control measures after redesignation without EPA approval of a SIP revision. Such a revision would have to meet the requirements of section 110(l) which requires that the revision could not interfere with any applicable requirement. Under these circumstances EPA considers that the requirement of section 7505(d) is satisfied.

With respect to the NO_X SIP call, which has an implementation deadline in the Commonwealth in 2003, EPA disagrees that this SIP element is necessary for redesignation (see comment(6)), and therefore no additional commitment is needed from the Commonwealth regarding this SIP element.

(2) Comment: A commenter asserts that Stage II vapor recovery, auto refinishing, consumer products, and AIM are listed as contingency measures and this is double counting.

Response: Stage II, auto refinishing, consumer products and AIM are state and Federal programs currently implemented in the Pittsburgh area. These programs have assisted in bringing the area into attainment and will continue help the area maintain the ozone NAAQS and are not listed as or considered to be contingency measures. There is no ''double counting''.

E. Comments Related to the Monitoring Data and the Monitoring Network

(1) Comment: We received comments asserting that the three years of data that should be analyzed for demonstration of attainment are 1994–1996. We also received a comment asking if the Pittsburgh-Beaver Valley 1999 and 2000 ozone data had been quality assured.

Response: EPA is taking action to approve a determination of attainment and a redesignation request and maintenance plan for the Pittsburgh area. The three years of violation free data upon which the determination of attainment is based, which the Commonwealth submitted to satisfy the applicable criteria for its redesignation request, is the ozone data for the 1998, 1999, and 2000 ozone seasons. EPA policy is to consider at the most recent 3 year period to determine attainment. The ozone data for the 1998, 1999, and 2000 ozone seasons from the 14 ozone monitoring stations in the Pittsburgh-Beaver Valley Area have been quality assured. All data were contained in the EPA AIRS Air Quality Subsystem (AQS) by December 4, 2000. All data in AIRS is quality assured prior to submittal to AIRS, as required by 40 CFR 58.35(d).

(2) Comment: We received comments expressing concern about the removal from service of the Penn Hills station during June 2001. The comments assign significance to the two exceedances that this station detected in 1999. One comment points out that the station had previously had monitored violations of the one hour NAAQS. Related comments express concern about the adequacy of the ozone network operated by PADEP and the Allegheny County Health Department (ACHD) in the Pittsburgh-Beaver Valley Area and state that there should not be a change or substitution of any monitor until attainment has been achieved.

Response: Since the early 1980's the network in the area has satisfied the minimum federal requirements for the number of stations and types of stations as set forth at 40 CFR part 58. At a minimum, a network must have two stations in each urban area with population greater than 200,000. 40 CFR part 58, Appendix D, § 3.4. The original Pittsburgh-Beaver Valley network consisted of four stations in Allegheny County and two stations each in Washington County and Beaver County.

EPA regulations contemplate that the monitoring network may change over

time, regardless of whether or not an area is currently designated as attainment. In an effort to improve the overall quality of data from the Pittsburgh-Beaver Valley area, the network has grown over time from the original eight to thirteen stations. This growth was carried out in accordance with state and federal law through a process of annual network reviews by the PADEP and the Allegheny County Health Department (ACHD) as required by 40 CFR 58.20(d). EPA participated in these reviews and network changes, as required by 40 CFR 58.21. EPA also approved the annual network designs in accordance 40 CFR 58.25. Past annual reviews identified potential data needs of the Pittsburgh-Beaver Valley network. In order to address these potential data needs, the network has expanded to its current size of thirteen stations. During this time, one of the original monitoring stations, Penn Hills, was retired from service, and six new stations were added, for a net growth of five stations during the 1990's.

The Penn Hills station was removed from service because of the limited value of the data collected there since it was established in the early 1980's. Significantly, this station has not shown a violation of the ozone standard since 1982. Furthermore, the net addition of five monitors to the Pittsburgh-Beaver Valley network during the 1990's provides monitoring coverage over an area than is inclusive of the area previously monitored by Penn Hills. This resulted in the Penn Hills site capturing data redundant of data collected at other monitors. Specifically, exceedances at the Penn Hills monitor were captured at other stations. For example, since 1987, all unhealthy days detected at Penn Hills, except for June 19, 1995, were captured by the Brackenridge station (or the Harrison station which replaced Brackenridge in 1990). On June 19, 1995, when the Penn Hills station identified ozone exceedances, the Lawrenceville station, and the Murryville station, also showed exceedances. The two days of exceedances in 1999 detected at Penn Hills were captured by three other stations, Harrison, Lawrenceville, and Greensburg. Therefore, the closing of the Penn Hills station will result in no loss of data.

(3) Comment: We received a comment expressing concern that the Penn Hills station ozone data and the South Fayette station ozone data are no longer reported on the Pennsylvania Department of Environmental Protection (PADEP) web page.

Response: The PADEP web site does not list the Penn Hills station because that station was taken out of service in June 2001. (See the comment and response provided at E.(2)) The commenter found no data for South Fayette, because no exceedances were detected at this operating station as of the date of the commenter's letter. There are no statutory or regulatory requirements that PADEP make its ozone data available on the Internet. However, in service to the citizens of the Commonwealth, it is PADEP's practice to provide daily information on its web page indicating those monitoring locations where exceedances of the 1-hour and/or 8-hour ozone standards have occurred (cautioning that this information is not based upon data that has been validated). If PADEP continues with its current practice, ozone data from the South Fayette monitor will be reported on the PADEP web site if this monitor ever exceeds the ozone standards.

(4) Comment: Several commenters expressed doubt that the area had attained the standard and suggested that violations in 2001 were imminent. One commenter asserts that the fact that the area had violated the 8-hour standard does not speak well of its being redesignated.

Response: The quality assured ozone data for 1998, 1999 and 2000 indicate that the Pittsburgh area has attained of the 1-hour NAAQS. Moreover, the preliminary data for the 2001 ozone season indicate, to date, continued attainment of the 1-hour standard. EPA does not believe that violations of the 1-hour standard are imminent in the Pittsburgh area.

The Pittsburgh area's status with respect to the 8-hour ozone standard is not germane to the approval of the redesignation request and maintenance plan for the 1-hour ozone standard.

III. What Actions Are We Taking?

We are determining that the Pittsburgh-Beaver Valley moderate ozone nonattainment area has attained the NAAQS for ozone. The Pittsburgh area includes the Pennsylvania counties of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements (section 172(c)(1)), along with certain other related requirements, of part D of Title 1 of the Act, specifically the section 172(c)(9) contingency measure requirement, the section 182(b)(1) attainment demonstration requirement are not applicable to the Pittsburgh area.

We are approving the redesignation of the Pittsburgh area to attainment of the 1-hour ozone standard and we are approving the section 175A maintenance plan as a revision to the Pennsylvania SIP. By approving the Pittsburgh area maintenance plan, EPA is also approving the Motor Vehicle Emissions Budgets contained in the plan as adequate for maintenance of the ozone NAAQS and for transportation conformity purposes. These Motor Vehicle Emissions Budgets are 109.65 tons/day of VOC for 1999, 98.22 tons/day of VOC for 2007, and 102 tons/day of VOC for 2011; for NO_X the Motor Vehicle emissions budgets are 171.05 tons/day for 1999, 129.12 tons/day for 2007, and 115.02 tons/day for 2011.

We are converting the limited approval of the NSR program in the Commonwealth to full approval everywhere in the Commonwealth with the exception of the Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area.

We are approving the 1990 NO_X base year emissions inventory for the Pittsburgh area.

IV. Why Are We Taking This Action To Redesignate the Area?

We are making a determination that the area has attained the 1-hour ozone standard. EPA is basing this determination upon three years of complete, quality-assured, ambient air monitoring data for the 1998–2000 ozone seasons that demonstrate that the ozone NAAQS has been attained in the entire Pittsburgh area. Preliminary data for the 2001 ozone season also indicates that the area continues in attainment. EPA believes that it is reasonable to interpret provisions regarding attainment demonstrations, along with certain other related provisions, not to require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (i.e., attainment of the NAAQS is demonstrated with three consecutive years of complete, quality assured, air quality monitoring data). See May 10, 1995, memorandum from John Seitz, and *Sierra Club* v. *EPA,* 99 F.3.d 1551 (10th Cir. 1996).

We are approving the maintenance plan as a revision to the SIP because it meets the requirements of section 175A and 107(d). We are also redesignating the area because three years of ambient air monitoring data demonstrate that the ozone NAAQS has been attained, the area has continued in attainment and the area has satisfied all other requirements for redesignation.

V. What Are the Effects of Redesignation to Attainment of the 1-Hour NAAQS?

These actions determine that the area attained the 1-hour ozone standard and that the requirements of section 172(c)(1) and 182(b)(1) concerning the submission of the ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures for reasonable further progress (RFP) or attainment are not applicable to the area.

The redesignation changes the official designation of the Pennsylvania counties of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland from nonattainment to attainment for the 1-hour ozone standard. It also approves a SIP revision that puts into place a plan for maintaining the 1-hour ozone standard for the next 10 years. This plan includes contingency measures to correct any future violations of the 1-hour ozone standard. By approving the maintenance plan, EPA is also approving the mobile source emissions budgets included in the plan for purposes of transportation conformity.

VI. 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. This action also redesignates an area to attainment, an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Redesignation of an area to attainment under section 107(d)(3)(E) of the Clean Air Act does not impose any new requirements on small entities. 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 CAA. This action also redesignates an area to attainment. The redesignation merely affects the status of a geographical area, does not impose any new requirements on sources, or allows a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. 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 CAA. 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 CAA. Additionally, redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 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, to redesignate the Pittsburgh area to attainment of the 1-hour ozone NAAQS, approve a 10-year maintenance plan, convert the New Source Review program to full approval, approve the NO_X base year inventory, and approve Motor Vehicle Emissions Budgets, may not be challenged later in proceedings to enforce its requirements. (See 42 U.S.C. 7607 (b)(2)).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(188) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(188) Revisions to the Pennsylvania Regulations including a 10-year ozone maintenance plan for the Pittsburgh-Beaver Valley area, submitted on May 21, 2001 by the Pennsylvania Department of Environmental Protection.

(i) *Incorporation by reference.*

(A) Letter dated May 21, 2001 submitted by the Pennsylvania Department of Environmental Protection transmitting the maintenance plan for Pittsburgh-Beaver Valley Area.

(B) The Pittsburgh-Beaver Valley Area ozone maintenance plan submitted by the Pennsylvania Department of Environmental Protection, effective May 15, 2001. This plan establishes motor vehicle emissions budgets for VOCs of 109.65 tons/day for 1999, 98.22 tons/day for 2007, and 102 tons/day for 2011. This plan also establishes motor vehicle emissions budgets for NO_X of 171.05 tons/day for 1999, 129.12 tons/day for 2007, and 115.02 tons/day for 2011.

(ii) *Additional material.* Remainder of State Submittal pertaining to the revision listed in paragraph (c)(188)(i) of this action.

3. Section 52.2036 is amended by revising the section heading and by adding paragraph (m) to read as follows:

§ 52.2036 1990 base year emission inventory.

* * * * *

(m) EPA approves the 1990 NO_X base year emission inventory for the Pittsburgh-Beaver Valley area, submitted by the Pennsylvania Department of Environmental Protection on March 22, 1996 and supplemented on February 18, 1997.

§ 52.2037 [Amended]

4. In § 52.2037 remove and reserve paragraph (b)(1).

PART 81—[AMENDED]

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

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

2. In § 81.339, the table for Ozone (1-Hour Standard) is amended by revising the entry for the ''Pittsburgh-Beaver Valley Area'' to read as follows:

§ 81.339 Pennsylvania.

* * * * *

PENNSYLVANIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* *	*	* *	*	*
Pittsburgh-Beaver Valley Area:				
Allegheny County	October 19, 2001	Attainment		
Armstrong County	October 19, 2001	Attainment		
Beaver County	October 19, 2001	Attainment		
Butler County	October 19, 2001	Attainment		
Fayette County	October 19, 2001	Attainment		
Washington County	October 19, 2001	Attainment		
Westmoreland County	October 19, 2001	Attainment		
* *	*	* *	*	*

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

* * * * *

[FR Doc. 01–26093 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 81

[CA058–FOA; FRL–7087–1]

Clean Air Act Finding of Attainment; California-Imperial Valley Planning Area; Particulate Matter of 10 Microns or Less (PM–10)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to find that the State of California has established to EPA's satisfaction that the Imperial Valley Planning Area (Imperial County), a PM–10 moderate nonattainment area, would have attained the national ambient air quality standards (NAAQS) for particulate matter of ten microns or less (PM–10) by the applicable Clean Air Act (CAA or the Act) attainment date, December 31, 1994, but for emissions emanating from outside the United States, i.e., Mexico. As a result of this final action, Imperial County will not be subject to a finding of failure to attain and reclassification to serious at this time and will remain a moderate PM–10 nonattainment area.

EFFECTIVE DATE: This action is effective on November 19, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region 9 office during normal business hours. U.S. Environmental Protection Agency, Region 9, Air Division, Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, California 94105.

Electronic Availability: This document is also available as an electronic file on EPA's Region 9 Web Page at http://www.epa.gov/region09/air.

FOR FURTHER INFORMATION CONTACT: Doris Lo, U.S. Environmental Protection Agency, Region 9, Air Division, Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1287, lo.doris@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Imperial County is a moderate PM–10 nonattainment area located on the

California border with Mexico, with a December 31, 1994 attainment deadline. Under CAA section 188(b)(2)(A), moderate PM–10 nonattainment areas must be reclassified as serious by operation of law after the statutory attainment date if the Administrator finds that the area has failed to attain the NAAQS. However, CAA section 179(B)(d) provides that any area that establishes to the satisfaction of EPA that it would have attained the PM–10 NAAQS by the applicable attainment date but for emissions emanating from outside the United States shall not be subject to the provisions of CAA section 182(b).

Imperial County and the California Air Resources Board submitted evidence that the County would have attained the PM–10 NAAQS but for transport from Mexico. The primary information prepared by the Imperial County Air Pollution Control District (ICAPCD) is ''Imperial County PM–10 Attainment Demonstration'' (hereafter referred to as the ''179B(d) demonstration'') which was transmitted to EPA by the California Air Resources Board (CARB) on July 18, 2001 letter from Michael P. Kenny, Executive Officer, CARB, to Ms. Laura Yoshii, Acting Regional Administrator, EPA Region 9).

Pursuant to CAA section 188(b)(2)(B) of the Act, EPA must publish a notice in the **Federal Register** identifying those areas that failed to attain the standard and reclassifying the areas to serious. On August 6, 2001, EPA issued two alternative proposals:

(1) To find that the State of California had established to EPA's satisfaction that Imperial County, a PM–10 moderate nonattainment area, would have attained the NAAQS PM–10 by the applicable Clean Air Act attainment date, December 31, 1994, but for emissions emanating from outside the United States, i.e., Mexico.

(2) Alternatively, to find that Imperial County did not attain the PM–10 NAAQS by its CAA mandated attainment date. This proposed finding was based on monitored air quality data for the PM–10 NAAQS during the years 1992–1994. A final action would result in a reclassification to serious PM–10 nonattainment for Imperial County.

These proposed alternative actions were published in a **Federal Register** notice (66 FR 42187) on August 10, 2001 (proposed rule or notice of proposed rulemaking, NPR). The 30-day public comment period ended on September 10, 2001. EPA requested public comments on both proposals and received ten comment letters from the following:

- Sierra Club/EarthJustice Legal Defense Fund (David S. Baron, Attorney)
- Imperial County Air Pollution Control District (Stephen L. Birdsall, Air Pollution Control Officer)
- Congressman Duncan Hunter, U.S. House of Representatives, Washington, D.C. 20515–0552
- Imperial Valley Vegetable Growers Association (Lauren S. Grizzle, Executive Director)
- Imperial County Farm Bureau (Lauren S. Grizzle, Executive Director)
- California Farm Bureau Federation (Cynthia L. Cory, Director, Environmental Affairs)
- Mar Vista Farms, Inc. (Michael B. Cox, President)
- Nisei Farmers League (Manuel Cunha, Jr., President)
- California Cotton Ginners and Growers Association (Roger A. Isom, Vice President & Director of Technical Services)
- Granite Construction Company (Jeff Mercer, Area manager)

All of the commenters supported EPA's proposed finding of attainment pursuant to section 179B(d) of the CAA, except for the Sierra Club/EarthJustice Legal Defense Fund (Sierra Club).

While the Sierra Club raises some important issues, EPA was aware of these issues prior to the proposed rulemaking and has not been convinced by Sierra Club that the State's 179B(d) demonstration is inadequate and that the finding of nonattainment and reclassification to serious should be finalized. Thus, EPA is finalizing its action to find that the State of California has established that Imperial County would have attained the NAAQS for PM–10 by the applicable CAA attainment date, December 31, 1994, but for emissions emanating from Mexico. Today's rulemaking provides EPA's responses to public comments and finalizes EPA's proposed action.

II. Public Comments and EPA Responses

A. Sierra Club/EarthJustice Legal Defense Fund (David S. Baron, Attorney)

Comments were submitted by the EarthJustice Legal Defense Fund on behalf of the Sierra Club. In general, the Sierra Club opposes our proposed finding of attainment and asserts that the 179B(d) demonstration does not adequately demonstrate attainment but for the emissions emananting from Mexico. The Sierra Club believes we must finalize our proposed finding of nonattainment and reclassification to serious PM–10 nonattainment for Imperial County.

1. CAA Requires Modeling

The Sierra Club's first group of comments address the need for a modeling demonstration. The Sierra Club asserts that air quality modeling is a requirement under CAA Section 179B(d) and that in order to qualify for a 179B(d) waiver, the state must make a showing that is the equivalent of an attainment demonstration which the Act and EPA's own regulations and guidelines require to be based on air quality modeling. The Sierra Club then discusses how the State's air quality modeling does not adequately demonstrate attainment of the 24-hour and annual PM–10 NAAQS due to deficiencies with the modeling inventory and modeling assumptions which are summarized in EPA's responses below.

EPA's response: EPA disagrees with the Sierra Club that a CAA Section 179(B)(d) waiver must be based on air quality modeling. CAA section 179B(d) does not require air quality modeling for PM–10 nonattainment areas at international borders, and EPA's guidance relating to serious PM–10 nonattainment areas suggests modeling as one of five methods that may be used to determine attainment but for international transport.[1] In issuing guidance on CAA section 179(B), EPA considered it appropriate to grant states more flexibility in making the ''but-for'' attainment determination for border areas due to the special difficulties that can be encountered at these areas.

For example, it may be particularly difficult for States to acquire the necessary input data for a valid modeling analysis, including monitored meteorological and air quality data, accurate speciated emissions inventories with temporal and spatial breakdown, and information on day-specific emissions, when such data must be collected in areas outside of the U.S. The acquisition of such data is

[1] EPA's guidance appears in ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998, August 16, 1994. The guidance lists 5 types of information that could be used to qualify for treatment under section 179B, and provides that ''States may use one or more of these types of information or other techniques, depending on their feasibility and applicability, to evaluate the impact of emissions emanating from outside the U.S. on the nonattainment area.'' The General Preamble goes on to note that ''the first 3 examples do not require the State to obtain information from a foreign country.'' Only the fifth method employs modeling. 59 FR 42001. As discussed in the proposed action, the State submitted information addressing each of the 5 methods. 66 FR 42189–90.

resource intensive both in terms of money and expert staff time, and the exercise may consume years of preparatory work and then require additional time and expense for quality assurance and data preparation and analysis. In cases where the critical modeling input data are not available or are incomplete or inaccurate, EPA believes that Congress could not have intended to disallow areas from presenting, and EPA from approving, non-modeling evidence of ''attainment but for transport.''

Although modeling input data were recognized to be sparse, the State's 179B(d) demonstration did attempt to address each of the 5 allowable approaches specified in the General Preamble, including an air quality modeling ''but-for'' attainment demonstration for both the annual and 24-hour PM–10 NAAQS.

As discussed in the proposed rule, EPA did not base the proposed finding of attainment for the 24-hour PM–10 NAAQS on the State's air quality modeling demonstration. The sensitivity of the 24-hour PM–10 NAAQS to the modeling inputs, coupled with the lack of model validation, led EPA to conclude that, unlike the annual PM–10 NAAQS, the air quality modeling could not be relied upon for the 24-hour PM–10 NAAQS attainment demonstration. Instead, EPA based its finding of attainment for the 24-hour PM–10 NAAQS on the State's analysis of monitoring sites, meteorological conditions (which involves an analysis of spatial plots, wind roses and back trajectories) and inventory estimates for both sides of the border. EPA believes that these are valid alternative methods for determining attainment but for international transport (see General Preamble at 59 FR 42001).

For the annual PM–10 NAAQS, model performance assessment also raises issues, although these concerns are less than for the 24-hour NAAQS because day-specific modeling inputs and predictions are not needed. Moreover, to determine whether or not Imperial County would have attained the annual PM–10 NAAQS but for international transport does not require modeling precision, due to the fact that the annual arithmetic mean concentrations for 1992–1994 are only slightly above the annual PM–10 NAAQS (51 μg/m^3 at Brawley and 56 μg/m^3 at Calexico Dichot-Grant Street). All that is required of the model in support of a ''but for'' demonstration is evidence that at least a small portion of the monitored concentrations was due to transport of pollution from Mexico.

2. Adequacy of the State's Emissions Inventory Input to the Modeling

The Sierra Club comments that the State's modeling inventory is insufficient because it was not developed for PM–10 modeling, does not reflect peak PM–10 levels, is not a ''current'' and ''accurate'' inventory, and does not contain data on actual PM–10 emissions, but is based on the SCOS inventory which is adjusted with invalid assumptions (i.e., percentage of TSP that is PM–10 and correlation of PM–10 emissions to population).

EPA Response: While the modeling inventory for Imperial County was not developed specifically for PM–10 modeling, it does include PM–10 emissions and represents the best available inventory at this time. As discussed in EPA's Technical Support Document (TSD) for the proposed rule, the modeling inventory was derived from the Southern California Ozone Study (SCOS) modeling inventory for a typical summer day. Seasonal adjustments were made to the inventory, and the inventory was scaled, based on population changes, for the years 1992 to 1994. The use of this modeling inventory to represent average annual PM–10 concentrations is an acceptable approach, but the use of this modeling inventory to represent peak PM–10 days is less reliable because emissions of PM–10 are likely to be higher than the seasonal average on peak days. In other words, this inventory is more reliable for the determining attainment of the annual PM–10 NAAQS than for the 24-hour PM–10 NAAQS.

EPA does not agree that the modeling inventory is insufficient because it is based on the SCOS inventory and adjustments made to that inventory (i.e., percentage of TSP that is PM–10 and correlation of PM–10 emissions to population). As discussed above, the modeling inventory developed is the best available inventory and information at this time. In order to develop a modeling inventory for Imperial County, the State took the SCOS modeling inventory and made adjustments to reflect the PM–10 emissions in Imperial county. For example, the SCOS inventory included emissions of total suspended particulates (TSP). PM–10 is a subset of TSP. In order to to adjust for the SCOS inventory for PM–10 emissions, the State used an adjustment factor of 1.93 which is based on a comparison of the 1997 SCOS inventory to Imperial County's 1995 PM–10 emissions inventory (best available PM–10 inventory). The State also adjusted the inventory for changes in the population since the ''vast majority of PM–10 emission in Imperial County are from area sources such as unpaved roads, paved roads and agriculture.'' [2] While these may not be the most precise adjustment techniques for the Imperial County PM–10 modeling inventory, EPA believes these adjustments are reasonable for the annual PM–10 NAAQS.

In general, there are many uncertainties in developing PM–10 inventories. This is partly due to intrinsic variability, but also because socioeconomic surrogate data and location-specific data needed to build a spatially and temporally resolved inventory is sometimes not available. However, EPA believes that the fugitive PM–10 emission estimates and the modeling that uses them are an adequate basis for this action. The State is continuously improving and updating inventory information. The inventory used in the State's demonstration represents the best available PM–10 inventory for the 1992–1994 timeframe.

3. Background Concentration in the Model

The Sierra Club comments that there is no basis for using the annual background concentration of 25 μg/m^3 and that it is ''the product of pure speculation.''

EPA Response: The background concentration level was based on a frequency distribution analysis of measured PM–10 concentrations at monitors in the Imperial County and Mexicali from 1992 to 2000.[3] EPA believes the 25 μg/m^3 background concentration level is a conservative level.

4. Secondary Particles in the Model

The Sierra Club comments that the State's modeling demonstration includes no analysis for secondary particle formation.

EPA Response: While there is no specific discussion of secondary particulates in EPA's proposed rule (66 FR 42187), the analysis provided by the state did account for the formation of secondary particulates. See Imperial County PM10 Attainment Demonstration, Chapter III.B, page 4. In addition the Imperial Valley/Mexicali Cross Border PM–10 Transport Study (Transport Study) provides a filter analysis which indicates that secondary

[2] See the State's 179B(d) demonstration (Chapter III.B. Modeling Emissions Inventory) for more detailed information on the how the State's modeling inventory was developed.

[3] See the State's 179B(d) demonstration (Chapter III.D. Background Concentrations) for more information.

particulates are measured in the range of 2 to 4 μg/m^3 for secondary ammonium sulfates and 2 to 3 μg/m^3 for secondary ammonium nitrates (Transport Study, Summary and Conclusion, page 9–5) and are thus a small portion of the particulate matter in Imperial County.

5. Proof That Mexico Emissions Impact U.S. Monitors and Adequacy of Alternative Demonstration

The Sierra Club asserts that the state has failed to demonstrate that PM–10 violations in Imperial County are actually being caused by emissions from Mexico and that, even if air quality modeling was not required, the state's ''alternative'' 179B(d) demonstration (i.e., based on analysis of wind patterns and population densities) is grossly inadequate. The Sierra Club believes that the State's analysis of wind patterns and population densities does not show that any quantifiable amount of particulates traveled to the U.S. monitors, let alone any amount that would contribute to nonattainment and that there is nothing in the record relating to an actual amount of PM–10 emissions traveling from Mexico to Imperial County. Also, the Sierra Club states that the Imperial Valley/Mexicali Cross Border PM–10 Transport Study (Transport Study), which indicates that international transport is not always the cause of PM–10 violations, were not refuted and are more reliable than the more recent analysis by the state which the Sierra Club claims to be speculative. Finally, the Sierra Club asserts that there is no analysis of the PM–10 transport to Imperial County's border from places other than Mexico (i.e., on the U.S. side).

EPA's response: The State's 179B(d) demonstration, which includes a detailed analysis of spatial plots, wind roses and back trajectories for each of the PM–10 exceedance days during 1992–1994, provides the best qualitative analysis of the emissions from Mexico possible for the Imperial County area for the period in question. Filter analyses often can provide more specificity on where the monitoring emissions are coming from but, since the types of PM–10 sources are similar on both sides of the border, analysis of the Imperial County samples would not show what portion of the catch originated on the Mexican side of the border.[4]

The Sierra Club suggests that the analyses found in the State's 179B(d) demonstration prove nothing about whether or not emissions from Mexico are impacting U.S. monitors. EPA believes that given the available information, the State has made a good argument that Imperial County is being impacted by Mexico emissions. Additional activities (tracer studies, air monitoring studies, establishment of more meteorology stations at border) could have been conducted, but it is not now possible to create information from new studies for the 1992–1994 timeframe. Thus, EPA believes that the State's 179B(d) analysis of spatial plots, wind roses and back trajectories provides the best determination of PM–10 emissions transport from Mexico.

EPA does not have to refute the Transport Study results in order to make this finding of attainment but for international transport. As discussed in the proposed rule, the additional windfield analyses (Attachment 2 to EPA's TSD, Additional windroses and windfields for January 25, 1993) provided a more detailed analysis, supplementing information from the Transport Study.[5] The Transport Study is simply an effort to collect air quality data on exceedance days and analyze the data based on wind direction and speed, and the study is thus very similar to the analyses found in the State's demonstration. The Transport Study indicates that several of the exceedance days appear to have stagnant wind conditions (1/19/93, 1/25/93, 7/7/94, 10/17/94 and 12/16/94), but the State's demonstration uses more meteorological data and finds evidence that transport from Mexico is likely even with the stagnant conditions at the surface. For each of the exceedances, the State's analysis took into account additional information not included in the Transport Study. This information included: (a) The number of hours with southerly wind directions that have the potential to carry emissions from Mexico into Imperial County; (b) the back trajectories and back trajectories based on upper-air synoptic wind data, which show the existence of much higher winds from the south that are decoupled from the surface stagnant conditions, and (c) the windroses developed for all meteorological stations, suggesting that emissions from Mexico likely contributed to the concentrations measured at Brawley. Based on this additional information and the further analyses, the State concluded that Imperial County would not have violated the PM–10 NAAQS but for transport from Mexico. In weighing the ''but-for'' evidence, EPA also considered it important to consider the relatively low level of the 24-hour exceedances (162 μg/m^3), 175 μg/m^3, 165 μg/m^3, 159 μg/m^3, and 153 μg/m^3). EPA concedes that information is not available to determine with confidence the exact quantity of PM–10 coming from Mexico, but EPA continues to believe that the State has diligently collected and analyzed available evidence and has successfully demonstrated for each of the exceedance days the probability that Imperial County would not have violated the NAAQS but for the emissions emanating from Mexico.

Finally, EPA believes that there were insufficient data to support a modeling assessment of the potential for long range transport from the South coast or other California areas to Mexico and back again to Imperial. The Sierra Club presents no evidence that there is transport from U.S. sources outside of Imperial County. Even if evidence existed that the Imperial County monitors were being impacted by long range transport from within the U.S., such evidence would not invalidate the State's demonstration that Imperial County would have attained the NAAQS but for emissions emanating from Mexico.

6. Emissions Inventories

The Sierra Club asserts that the comparison of emissions inventories between Imperial and Mexicali is inadequate due to the uncertainty in the Mexicali inventory, that the Mexicali inventory has not been analyzed for transportability of particles and that the emissions inventory for Imperial County has never been approved by EPA, and thus cannot be used to support a ''but-for'' finding.

EPA's response: The comparison of Imperial and Mexicali emissions was intended to provide support for the attainment finding. EPA agrees that there is uncertainty in the Mexicali inventory, however, EPA also believes it is useful to examine all available data for this attainment finding. Even if the Mexicali emissions were one-half of 257, as suggested by the Sierra Club, the emissions in the city of Mexicali (200 square miles) would be about half of the emissions in all of Imperial County (4060 square miles), but the emissions density in Mexicali would still be much

[4] As discussed in the proposed rule, the 1992–1993 Imperial Valley/Mexicali Cross Border PM–10 Transport Study (Final Report, January 30, 1997) includes an analysis of the particles collected in areas within Imperial County where violations have been recorded. This sample analysis determined that geological dust (70–90%), motor vehicle exhaust (10–15%) and vegetative burning (10%) account for the highest contribution to PM–10 concentrations. These are the predominant emissions sources on both sides of the border. Thus, the filter analysis by itself could not be used to determine the extent to which violations might result from international transport.

[5] See Attachment 2 to EPA's TSD, Additional windroses and windfields for January 25, 1993.

greater than in Imperial County. As far as determining the transportability of emissions from Mexicali, as discussed above and in the proposed rule, filter analyses have been examined for the border area and provided some information on the particles characteristics. Finally, as discussed above, the emission inventories used in the State's 179B(d) demonstration are the most current and best available. EPA plans to take action on the inventories when they are submitted as part of the State Implementation Plan (SIP) for Imperial County.

7. Post-1994 Exceedances

The Sierra Club asserts that the 179B(d) determination is inadequate because it fails to consider the post-1994 exceedances. The Sierra Club states that the post-1994 exceedances are numerous, in some cases extreme, and relevant to the attainment but for international transport determination.

EPA's response: EPA believes that the post-1994 exceedances are irrelevant to the determinations at issue. The statutory attainment date for the Imperial County PM–10 moderate nonattainment area is December 31, 1994. EPA believes the State's 179B(d) demonstration adequately demonstrates attainment by examining the air quality data from 1992–1994. If this demonstration is adequate, reclassification to serious is not required. Section 188(b)(2) provides that: ''Within 6 months following the applicable attainment date for a PM–10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date. If the Administrator finds that any Moderate Area is not in attainment after the applicable attainment date * * *'' the area shall be reclassified. While the second sentence of section 188(b)(2) contains the language quoted by the commentor ''is not in attainment after the applicable attainment date,'' it is clear that in the context of the first sentence of the provision, which is the sentence that establishes the duty to make an attainment determination, the duty is to ''determine whether the area attained the standard by that date [referring to the phrase ''applicable attainment date'' in the opening clause of the sentence].'' Thus, EPA's duty is to determine whether the area attained by its attainment date and the language in the second sentence regarding a finding after the attainment date may reasonably be interpreted as referring to the date the finding is made, which would necessarily be after the attainment date, not to the date used in the determination as the benchmark for determining attainment. The question of whether an area should be reclassified is considered along with whether an area has achieved attainment by the attainment date. Thus, the air quality data from the years 1992–1994 are the relevant data for determining whether Imperial County should be reclassified to serious.

8. SIP Requirements

Finally, the Sierra Club asserts that a 179B(d) waiver cannot be granted unless all moderate area SIP requirements (e.g., RACM, RACT, New Source Review, etc.) are being met.

EPA's response: As discussed in the EPA's proposal, this rulemaking does not address the SIP requirements for Imperial County but only the question of whether or not the State has established that Imperial County attained the NAAQS by December 31, 1994, but for international transport. CAA section 179B(d) states that ''any State that establishes to the satisfaction of the Administrator * * * that such State has attained the national ambient air quality standard for [PM–10] by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be submit to the provisions of section 7512(b)(2) * * *'' which requires reclassification upon failure to attain. This provision does not require a SIP submittal in order for the waiver to be granted. EPA is currently working with the Imperial County Air Pollution Control District and the California Air Resources Board on developing an approvable State Implementation Plan for Imperial County. A draft of this plan was issued for public review in July 2001.

B. Other Comments Supporting EPA's Final Action

Besides the Sierra Club, all of the commentors support EPA's finding of attainment but for international transport and are extremely opposed to the finding of nonattainment and reclassification to a serious PM–10 nonattainment area. Commentors discussed the overwhelming pollution problem coming from Mexico, the measures their industries have taken to reduce pollution and that it would be unfair to impose additional controls on sources in Imperial County. The Imperial County Air Pollution Control District also provided additional technical analysis supporting the methods used in the State's 179B(d) demonstration.

III. Summary of Final Action

EPA's proposed rule (66 FR 42187) discusses how the State's 179B(d) demonstration is based on a competently collected and examined set of the relevant available information, and reaches a reasoned conclusion that each of the 1992–94 exceedances, which are only slightly above the NAAQS, would likely not have occurred without pollutant transport from Mexico.

In summary, EPA continues to believe that CAA section 179B(d) does not mandate a modeling demonstration, and that the State has provided evidence sufficient to show that, but for international transport of PM–10, Imperial County would have attained the annual and 24-hour PM–10 NAAQS by the December 31, 1994 deadline.

IV. Administrative Requirements

A. Executive Order 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, (1) have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients therof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that the final finding of attainment pursuant to CAA section 179B(d) would result in none of the effects identified in section 3(f). A finding of attainment under section 179B(d) of the CAA does not impose any additional requirements on an area. This actions does not, in-and-of-itself, impose any new requirements on any sectors of the economy.

B. Executive Order 13211

The final finding of attainment under CAA 179B(d) is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001)) because

it is not a significant regulatory actions under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled 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.

The final finding of attainment under CAA 179B(d) is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

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.

The final finding of attainment will not have substantial direct effects on California, on the relationship between the national government and California, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. As stated above, a finding of attainment under section 179B(d) of the CAA does not impose any additional requirements on an area. This action does not, in-and-of-itself, impose any new requirements on any sectors of the economy. Thus, the requirements of section 6 of the Executive Order do not apply to this final action.

E. Executive Order 13175

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

The final finding of attainment under CAA 179B(d) does not have tribal implications. For the reasons discussed above, the final action will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

F. Regulatory Flexibility Act

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

As discussed above, the final finding of attainment under CAA 179B(d) does not impose additional requirements on small entities. Therefore, I certify that this final action will not have a significant economic impact on a substantial number of small entities.

G. 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 by the rule.

With respect to EPA's final finding of attainment under CAA 179B(d), EPA notes that this actions in-and-of itself establishes no new requirements. Furthermore, EPA is not directly establishing any regulatory requirements that may significantly impact or uniquely affect small governments, including tribal governments. Thus, EPA is not obligated to develop under section 203 of UMRA a small government agency plan.

H. National Technology Transfer and Advancement Act

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

EPA believes that VCS are inapplicable to today's final action because they do not require the public to perform activities conducive to the use of VCS.

I. Submission to Congress and the Comptroller General

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

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

J. Petitions for Judicial Review

Under section 307(b)(1) of the 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 18, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

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

Authority: 42 U.S.C. 7401–7671q.

Dated: October 9, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26406 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7515]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

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

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

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

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

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

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

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

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Florida: Duval	City of Jacksonville.	August 8, 2001; August 15, 2001; *Financial News and Daily Record*.	The Honorable John A. Delaney, Mayor of the City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, Florida 32202.	August 1, 2001	120077D&E
Georgia: Gwinnett	Unincorporated Areas.	August 23, 2001; August 30, 2001; *Gwinnett Daily Post*.	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Commissioners, Justice and Administration Center, 75 Langley Drive, Lawrenceville, Georgia 30045.	November 29, 2001 ...	130322D
Kentucky: Whitley	City of Williamsburg.	August 17, 2001; August 24, 2001; *Times Tribune*.	The Honorable Bill Nighbert, Mayor of the City of Williamsburg, P.O. Box 119, Williamsburg, Kentucky 40769.	August 10, 2001	210228D
Maine: York	Town of Alfred ...	September 27, 2001; October 4, 2001; *The Sanford News*.	Mr. Perley Yeaton, Chairperson of the Board of Selectmen for the Town of Alfred, P.O. Box 667, Alfred, Maine 04001.	September 19, 2001 ..	230191C
Mississippi: Madison.	City of Ridgeland	May 17, 2001; May 24, 2001; *Madison County Journal*.	The Honorable Gene F. McGee, Mayor of the City of Ridgeland, P.O. Box 217, Ridgeland, Mississippi 39158.	May 10, 2001	280110 D
North Carolina:					
Wake	Town of Cary	August 2, 2001; August 9, 2001; *The Cary News*.	The Honorable Glenn D. Lang, Mayor of the Town of Cary, 318 North Academy Street, P.O. Box 8005, Cary, North Carolina 27512.	July 26, 2001	370238D
Dare	Unincorporated Areas.	August 23, 2001; August 30, 2001; *Coastland Times*.	Mr. Moncie L. Daniels, Chairman of the Board of Commissioners, P.O. Box 1000, Manteo, North Carolina 27954.	August 16, 2001	375348E
Wake	Town of Garner	July 18, 2001; July 25, 2001; *The News and Observer*.	Ms. Mary Lou Rand, Town Manager, P.O. Box 446, 900 Seventh Avenue, Garner, North Carolina 27529.	July 11, 2001	370240 D
Gaston	City of Gastonia	August 29, 2001; September 5, 2001; *The Gaston Gazette*.	Mayor of the City of Gastonia, P.O. Box 1748, 181 South Street, Gastonia, North Carolina 28053–1748.	December 5, 2001	370100D
Wake	City of Raleigh ...	July 18, 2001; July 25, 2001; *The News and Observer*.	The Honorable Paul Y. Coble, Mayor of the City of Raleigh, P.O. Box 590, 222 West Hargett Street, Raleigh, North Carolina 27602.	July 11, 2001	370243 D
Wake	Unincorporated Areas.	July 18, 2001; July 25, 2001; *The News and Observer*.	Mr. David Cooke, Wake County Manager, Suite 1100, 337 South Salisbury Street, Raleigh, North Carolina 27602.	July 11, 2001	370368 D
Ohio: Warren	City of Mason	September 5, 2001; September 12, 2001; *Pulse-Journal*.	The Honorable John McCurley, Mayor of the City of Mason, 202 West Main Street, Mason, Ohio 45040.	August 30, 2001	390559C
South Carolina:					
Lexington	City of Columbia	August 20, 2001; August 27, 2001; *The State*.	The Honorable Robert D. Cole, Mayor of the City of Columbia, P.O. Box 147, Columbia, South Carolina 29201.	August 13, 2001	450172D
Lexington	Unincorporated Areas.	August 20, 2001; August 27, 2001; *The State*.	Mr. Bruce Rucker, Lexington County Council Chairman, 212 South Lake Drive, Lexington, South Carolina 29072.	August 13, 2001	450129D
Tennessee: Sullivan.	Town of Kingsport.	August 23, 2001; August 30, 2001; *Kingsport Times*.	The Honorable Jeanette Blazier, Mayor of the City of Kingsport, 225 West Center Street, City Hall, Kingsport, Tennessee 37660–4237.	August 16, 2001	470184D
Virginia: Rockingham.	Unincorporated Areas.	September 21, 2001; *Daily News Record*.	Mr. Pablo Cuevas, Chairman of the Board of Supervisors, Rockingham County P.O. Box 1252 Harrisonburg, Virginia 22801.	October 12, 2001	510133B

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

Dated: October 9, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–26424 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Final rule.

SUMMARY: Modified Base (1–percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps ((FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Hazard Mapping and Risk Assessment Division, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of the final determinations of modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Administrator, Federal Insurance and Mitigation Administration, has resolved any appeals resulting from this notification.

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

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

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

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

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

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

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612 Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Arkansas: Washington (FEMA Docket No. 7602).	City of Springdale	April 20, 2001, April 27, 2001, *The Morning News of Northwest Arkansas*.	The Honorable Jerre Van Hoose, Mayor, City of Springdale, 201 Spring Street, Springdale, Arkansas 72764.	July 27, 2001	050219
Oklahoma: (FEMA Docket No. 7602).	City of Edmond	May 17, 2001, May 24, 2001, *The Edmond Sun*.	The Honorable Bob Rudkin, Mayor, City of Edmond, P. O. Box 202, Edmond, Oklahoma 73083.	August 23, 2001 ..	400252

State and county	Location	Dates and names of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Oklahoma: Pottawatomie (FEMA Docket No. 7602).	City of Shawnee ...	April 20, 2001, April 27, 2001, *The Shawnee News-Star*.	The Honorable Chris Harden, Mayor, City of Shawnee, P.O. Box 1448, Shawnee, Oklahoma 74802.	July 27, 2001	400178
Texas: Dallas and Collin (FEMA Docket No. 7602).	City of Garland	April 12, 2001, April 19, 2001, *Garland News*.	The Honorable Jim Spence, Mayor, City of Garland, 200 North 5th Street, P.O. Box 469002, Garland, Texas 76042–9002.	July 19, 2001	485471
Texas: Tarrant and Ellis (FEMA Docket No. 7602).	City of Grand Prairie.	April 19, 2001, April 26, 2001, *Arlington Morning News*,.	The Honorable Charles England, Mayor, City of Grand Prairie, 317 College Street, P.O. Box 534045, Grand Prairie, Texas 75053–4045.	March 29, 2001	485472
Texas: Harris (FEMA Docket No. 7604).	Unincorporated Areas.	May 18, 2001, May 25, 2001, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	August 9, 2001	480287

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

Dated: October 3, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–26426 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–P–7606]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Interim rule.

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

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Administrator for Federal Insurance and Mitigation Administration reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Hazard Mapping and Risk Assessment Division, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–3461 or (e-mail) matt.miller@fema.gov.

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

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

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

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

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

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

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform.

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and record keeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Pope	City of Russellville	August 21, 2001, August 28, 2001, *The Courier*.	The Honorable Raye Turner, Mayor, City of Russellville, P. O. Box 428, Russellville, Arkansas 72801.	July 30, 2001	050178
Illinois:					
Lake	Village of Lake Zurich.	August 16, 2001, August 23, 2001, *Lake Zurich Courier*.	The Honorable James Krischke, Mayor, Village of Lake Zurich, 70 East Main Street, Lake Zurich, Illinois 60047.	July 18, 2001	170376
Will	Unincorporated Areas.	July 24, 2001, July 31, 2001, *The Chicago Sun-Times*.	Mr. Joseph L. Mikan, County Executive, Will County, 302 North Chicago Street, Joliet, Illinois 60432.	October 30, 2001	170695
Indiana: Howard ...	Unincorporated Areas.	July 20, 2001, July 27, 2001, *Kokomo Tribune*.	Mr. John Harbaugh, President, Howard County, Board of Commissioners, 230 North Main, Kokomo, Indiana 46901.	June 27, 2001	180414
Iowa: Black Hawk	City of Cedar Falls	July 24, 2001, July 31, 2001, *Waterloo Cedar Falls Courier*.	The Honorable Jon Crews, Mayor, City of Cedar Falls, 220 Clay Street, Cedar Falls, Iowa 50613.	June 22, 2001	190017
Missouri: Marion ...	Unincorporated Areas.	August 1, 2001, August 8, 2001, *Palmyra Spectator*.	Mr. Lyndon Bode, Presiding Commissioner, Marion County, 100 South Main Street, Palmyra, Missouri 63461.	July 9, 2001	290222
Nebraska: Lancaster.	City of Lincoln	April 19, 2001, April 26, 2001, *Lincoln Journal Star*.	The Honorable Don Wesely, Mayor, City of Lincoln, 555 South 10th Street, Room 208, Lincoln, Nebraska 68508.	March 13, 2001	315273
Ohio: Summit	City of Twinsburg	August 9, 2001, August 16, 2001, *The Twinsburg Bulletin*.	The Honorable Katherine Procop, Mayor, City of Twinsburg, 10075 Ravenna Road, Twinsburg, Ohio 44087.	November 15, 2001.	390534
Oklahoma: Jefferson.	City of Waurika	July 5, 2001, July 12, 2001, *Waurika News-Democrat*.	The Honorable Biff Eck, Mayor, City of Waurika, 122 South Main, Waurika, Oklahoma 73573.	October 11, 2001	400076
Texas:					
Tarrant	City of Haltom City	July 24, 2001, July 31, 2001, *Fort Worth Star-Telegram*.	Mr. Joel A. Guerrero, Floodplain Administrator, City of Haltom City, 5024 Broadway Avenue, Haltom City, Texas 76117.	October 30, 2001	480599
Harris	Unincorporated Areas.	August 16, 2001, August 23, 2001, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	November 22, 2001.	480287
Harris	Unincorporated Areas.	August 21, 2001, August 28, 2001, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	November 27, 2001.	480287
Harris	City of Houston	August 21, 2001, August 28, 2001, *Houston Chronicle*.	The Honorable Lee P. Brown, Mayor, City of Houston, P. O. Box 1562, Houston, Texas 77251–1562.	November 27, 2001.	480296
Denton	Town of Little Elm	July 12, 2001, July 19, 2001, *Deonton Record-Chronicle*.	The Honorable Jim Pelley, Mayor, Town of Little Elm, P. O. Box 129, Little Elm, Texas 75068.	October 18, 2001	481152
Tarrant	City of North Richland Hills.	July 24, 2001, July 31, 2001, *Fort Worth Star-Telegram*.	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P. O. Box 820609, North Richland Hills, Texas 76182.	October 30, 2001	480607
Tarrant	City of North Richland Hills.	August 23, 2001, August 30, 2001, *Fort Worth Star-Telegram*.	The Honorable Charles Scoma, Mayor, City of North Richland Hills, P. O. Box 820609, North Richland Hills, Texas 76182.	July 31, 2001	480607

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Tarrant	City of Richland Hills.	July 24, 2001, July 31, 2001, *Fort Worth Star-Telegram*.	Mr. John W. Cherry, P.E., Director, Dept. of Public Works, City of Richland Hills, 6700 Rena Drive, Richland Hills, Texas 76118.	October 30, 2001	480608
Tarrant	City of Southlake ..	August 3, 2001, August 10, 2001, *Fort Worth Star-Telegram*.	The Honorable Rick Stacy, Mayor, City of Southlake, 1400 Main Street, Suite 270, Southlake, Texas 76092.	November 9, 2001	480612
Harris	City of Tomball	July 25, 2001, August 1, 2001, *Tomball Magnolia Tribune*.	The Honorable Hap Harrington, Mayor, City of Tomball, 401 West Market Street, Tomball, Texas 77375–4645.	October 31, 2001	480315

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

Dated: October 3, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–26425 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform.

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

List of Subjects in 44 CFR Part 67

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

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
FLORIDA	
Daytona Beach (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 450 feet northeast of the intersection of Harvey Avenue and Ocean Avenue South	*10
Approximately 300 feet east of the intersection of Hartford Avenue and Atlantic Avenue North	*13
Intracoastal Waterway:	
Approximately 500 feet west of the intersection of Glenview Boulevard and Halifax Avenue North	*5
Approximately 700 feet east of the intersection of San Juan Avenue and North Beach Street	*8
B–19 Canal Tributary No. 7:	
At confluence with B–19 Canal	*30
Approximately 150 feet upstream of Beville Road/State Route 400	*30
B–19 Canal:	
Approximately 1,100 feet upstream of the confluence of B–19 Canal Tributary No. 3 with B–19 Canal	*29
Approximately 100 feet upstream of State Route 400	*30
Tomoka River:	
Approximately 0.8 mile downstream of Eleventh Street	*14
Approximately 400 feet downstream of Interstate 4	*25
Maps available for inspection at Daytona Beach Public Works Complex, Engineering Department, 950 Bellevue Avenue, Daytona Beach, Florida.	
Daytona Beach Shores (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 400 feet east of the intersection of Ridge Road and Atlantic Avenue South	*10
Approximately 500 feet east of the intersection of Van Avenue and Atlantic Avenue South	*12
Intracoastal Waterway:	
Approximately 400 feet west of the intersection of Richards Lane and Peninsula Drive South	*6
At the intersection of Demott Street and Peninsula Drive South	*6
Maps available for inspection at the City of Daytona Beach Shores City Hall, Building Division, 3050 South Atlantic Avenue, Daytona Beach, Florida.	
Edgewater (City), Volusia County (FEMA Docket No. 7311)	
Indian River North/Intracoastal Waterway:	
Just on the Easterly side of the intersection of Boston Road and Riverside Drive	*7
Approximately 100 feet east of the intersection of Knapp Avenue and Riverside Drive South	*9
Maps available for inspection at the City of Edgewater Planning Department, 104 North Riverside Drive, Edgewater, Florida.	
Holly Hill (City), Volusia County (FEMA Docket No. 7311)	
Intracoastal Waterway:	
At the intersection of High Street and Burleigh Avenue	*6
Approximately 100 feet east of the intersection of 15th Place and Riverside Drive	*7
Maps available for inspection at the Holly Hill City Hall, 1065 Ridgewood Avenue, Holly Hill, Florida.	
New Smyrna Beach (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 400 feet east of the intersection of 3rd Avenue East and Atlantic Avenue South	*10
Approximately 0.8 mile north of the intersection of Peninsula Avenue North and Ocean Drive	*12
Indian River North/Intracoastal Waterway:	
At the intersection of Ocean Drive and Peninsula Avenue North	*7
Approximately 1,500 feet east of the intersection of Conrad Drive and Redland Drive	*9
Maps available for inspection at the New Smyrna City Hall, 210 Sams Avenue, New Smyrna Beach, Florida.	
Oak Hill (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 120 feet east of the intersection of State Route A1A and Volusia County/Oak Hill corporate limits	*11
Approximately 500 feet from the southern Volusia County/Oak Hill corporate limits along State Route A1A north, then approximately 350 feet east	*12
Indian River North/Intracoastal Waterway:	
Approximately 1,500 feet southwest of the intersection of South Street and State Route A1A in Volusia County	*6
Approximately 500 feet east of the intersection of Cheyenne Drive and Golden Bay Boulevard	*8
Maps available for inspection at the Oak Hill City Hall, 234 South U.S. Highway 1, Oak Hill, Florida.	
Ormond Beach (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 350 feet east of the intersection of Ann Rustin Drive and Ocean Shore Boulevard	*10
Approximately 600 feet east of the intersection of Harvard Drive and Florence Street	*12
Halifax River/Intracoastal Waterway:	
At the intersection of John Anderson Drive and St. Mark Circle	*4
Approximately 100 feet east of the intersection of Seville Street and Beach Street South	*7
Approximately 200 feet west of intersection of John Anderson Drive and Buckingham Drive	*4
Tomoka River:	
Approximately 1.1 miles downstream of confluence of Thompson Creek	*5
Approximately 1,500 feet upstream of State Route 40	*10
Misner Branch:	
At confluence with Tomoka River	*8
Approximately 100 feet upstream of Handy Avenue	*15
Little Tomoka River:	
At confluence with Tomoka River	*10
At State Route 40	*28
Groover Branch:	
At confluence with Tomoka River approximately 1,300 feet downstream of Tymber Run Road	*20
Approximately 340 feet upstream of Tymber Creek Road North	*10
Thompson Creek:	
Approximately 470 feet downstream of U.S. Route 1 North	*7
Approximately 0.45 mile upstream of Tomoka Avenue	*8

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Ormond Beach City Hall, Planning Department, 22 South Beach Street, Room 104, Ormond Beach Florida.	
Ponce Inlet (Town), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 300 feet east of the intersection of Old Carriage Road and Atlantic Avenue South	*10
Approximately 750 feet east of the Beach Street and Atlantic Avenue South intersection	*12
Intracoastal Waterway:	
At the intersection of Maura Court and Peninsula Drive South	*7
Approximately 2,500 feet south of the intersection of Beach and Sailfish Drive	*9
Maps available for inspection at the Ponce Inlet Town Hall, 4680 South Peninsula Drive, Ponce Inlet, Florida.	
Port Orange (City), Volusia County (FEMA Docket No. 7311)	
B–19 Canal:	
Approximately 300 feet upstream of confluence with Spruce Creek	*5
Approximately 150 feet downstream of the confluence of B–19 Canal Tributary No. 5 with B–19 Canal	*29
B–19 Canal Tributary No. 2:	
At the confluence with B–19 Canal	*28
Approximately 1,500 feet upstream of confluence with B–19 Canal	*28
Intracoastal Waterway:	
At the intersection of Riverview Lane and Simpson Avenue	*6
At the intersection of Portobello Drive and Riverside Drive	*9
Maps available for inspection at the Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida.	
South Daytona (City), Volusia County (FEMA Docket No. 7311)	
Intracoastal Waterway:	
At the intersection of Sea Isle Circle and Palmetto Avenue	*6
Approximately 600 feet east of the intersection of Venture Drive and U.S. Route 1 (Ridgewood Avenue South)	*8
Approximately 125 feet southwest of the intersection of Reed Canal Road and Ridgewood Avenue South/U.S. Route 1	*6
Volusia County (Unincorporated Areas) (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 350 feet east of the intersection of Plaza Drive and Ocean Shore Boulevard	*10
Approximately 300 feet southeast of the intersection of Kingfish Avenue and Atlantic Avenue South	*12
Approximately 500 feet southeast of intersection of Ocean Shore Boulevard and northern county boundary	*12
Halifax River/Intracoastal Waterway:	
Approximately 100 feet southwest of the intersection of John Anderson Drive and Highridge Road	*4
Approximately 2,750 feet west of intersection of Cardinal Boulevard and Major Street	*9
Indian River North/Intracoastal Waterway:	
Approximately 1,000 feet east of intersection of Pelican Place and Riverside Drive	*7
Approximately 50 feet west of the intersection of Trout Avenue and Atlantic Avenue	*6
Groover Branch:	
Approximately 1,250 feet upstream of Tymber Run	*10
Approximately 340 feet upstream of Tymber Creek Road North	*20
Tomoka River:	
Approximately 1.17 miles downstream of confluence of Thompson Creek	*5
Approximately 0.96 mile upstream of U.S. Route 92	*25
Little Tomoka River:	
At confluence with Tomoka River, approximately 1,850 feet downstream of Main Trail Road	*10
Approximately 200 feet upstream of State Route 40	*30
B–19 Canal:	
At the confluence of B–19 Canal Tributary No. 2	*28
Approximately 550 feet northeast of the confluence of B–19 Canal Tributary No. 3 with B–19 Canal	*29
Crescent Lake:	
Approximately 6,000 feet northeast of the intersection of Ducan Road and Raulerson Road No. 7	*7
Approximately 2.84 miles northeast of the intersection of Ducan Road and Raulerson Road No. 7	*7
B–19 Canal Tributary No. 2:	
Approximately 50 feet upstream of confluence with B–19 Canal	*28
Approximately 650 feet upstream of confluence with B–19 Canal	*28
Maps available for inspection at the Volusia County Emergency Operations Center, 49 Keyton Drive, Daytona, Florida.	
MAINE	
Bangor (City), Penobscot County (FEMA Docket No. D–7510)	
Penobscot River:	
At downstream corporate limits	*16
At upstream corporate limits	*25
Penjajawoc Stream:	
At Mount Hope Avenue	*45
Approximately 0.31 mile upstream of Stillwater Avenue	*107
Kenduskeag Stream:	
At confluence with Penobscot River	*18
Approximately 0.64 mile upstream of confluence with Penobscot River	*18
Maps available for inspection at the Bangor City Hall, 73 Harlow Street, Bangor, Maine.	
NEW JERSEY	
Bernards (Township), Somerset County (FEMA Docket No. D–7504)	
Passaic River:	
Approximately 1.6 miles downstream of Passaic Valley Road	*214
Approximately 100 feet downstream of the upstream corporate limits	*303
Dead River:	
At the downstream corporate limits	*214
Approximately 0.78 mile upstream of the downstream corporate limits	*216
Maps available for inspection at the Bernards Township Hall, Engineer's Office, 277 South Maple Avenue, Bernards, New Jersey.	
Millburn (Township), Essex County (FEMA Docket No. D–7506)	
Passaic River:	
Approximately 2,550 feet upstream of downstream corporate limits	*177
Approximately 200 feet downstream of Main Street	*179

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Millburn Township Hall, 375 Millburn Avenue, Millburn, New Jersey.	
PENNSYLVANIA	
Avondale (Borough), Chester County (FEMA Docket No. D–7502)	
East Branch White Clay Creek:	
Approximately 330 feet downstream of State Route 41	*271
Approximately 1,060 feet upstream of 3rd Avenue	*280
Maps available for inspection at the Avondale Borough Hall, 110 Palmroy Avenue, Avondale, Pennsylvania.	
Caln (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 900 feet downstream of State Route 282	*241
Approximately 1,100 feet upstream of U.S. Route 30	*253
Maps available for inspection at the Caln Municipal Building, Department of Engineering and Code Enforcement, 253 Municipal Drive, Thorndale, Pennsylvania.	
Coatesville (City), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 2,800 feet downstream of Business Route 30	*307
Just downstream of Kings Highway	*362
Maps available for inspection at the Coatesville City Hall, Codes Department, 1 City Hall Place, Coatesville, Pennsylvania.	
Downingtown (Borough), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 3,000 feet upstream of U.S. Route 322	*232
Approximately 700 feet upstream of U.S. Route 30	*253
Maps available for inspection at the Downingtown Borough Hall, 4 West Lancaster Avenue, Downingtown, Pennsylvania.	
East Bradford (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 450 feet downstream of Route 842	*187
Approximately 1,250 feet downstream of U.S. Route 322 (second crossing)	*224
West Branch Brandywine Creek:	
Approximately 200 feet upstream of confluence with Brandywine Creek	*187
Approximately 4,200 feet upstream of State Road 842 (Wawaset Road)	*195
Maps available for inspection at the East Bradford Township Hall, 666 Copeland Road, West Chester, Pennsylvania.	
East Brandywine (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 1,162 feet upstream of U.S. Route 30	*253
Approximately 3,500 feet upstream of Lyndell Road	*338
Maps available for inspection at the East Brandywine Township Office, 1214 Horseshoe Pike, Downingtown, Pennsylvania.	
East Caln (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 1,125 feet downstream of U.S. Route 322 (second crossing)	*224
Approximately 2,350 feet downstream of Dowlin Forge Road	*260
Maps available for inspection at the East Caln Township Hall, 110 Bell Tavern Road, Downingtown, Pennsylvania.	
East Fallowfield (Township), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 500 feet downstream of State Route 3062 (Strasburg Road)	*252
Approximately 375 feet downstream of CONRAIL Railroad bridge	*272
Maps available for inspection at the East Fallowfield Township Hall, 2264 Strasburg Road, East Fallowfield, Pennsylvania.	
Honey Brook (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Just upstream of South Creek or Chestnut Tree Road	*558
Approximately 2,920 feet upstream of Suplee Road	*597
Maps available for inspection at the Honey Brook Township Building, 495 Suplee Road, Honey Brook, Pennsylvania.	
London Grove (Township), Chester County (FEMA Docket No. D–7502)	
East Branch White Clay Creek:	
Approximately 1,080 feet upstream of Third Avenue	*279
Approximately 1,440 feet upstream of Third Avenue	*280
Maps available for inspection at the London Grove Township Hall, 372 Rosehill Road, Suite 100, West Grove, Pennsylvania.	
Modena (Borough), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 500 feet downstream of Luria Railroad Bridge (CONRAIL)	*272
Approximately 4,200 feet downstream of First Avenue	*283
Maps available for inspection at the Modena Borough Hall, North Brandywine Avenue, Modena, Pennsylvania.	
New Garden (Township), Chester County (FEMA Docket No. D–7502)	
East Branch White Clay Creek:	
Approximately 1,080 feet upstream of Third Avenue	*279
Approximately 1,440 feet upstream of Third Avenue	*280
Maps available for inspection at the New Garden Township Building, 8934 Gap Newport Pike, Landenburg, Pennsylvania.	
Newlin (Township), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 800 feet upstream of State Route 3027 (Northbrook Road)	*202
Approximately 500 feet downstream of State Route 3062 (Strasburg Road)	*252
Maps available for inspection at Yerkey's Associates, 1444 Phoenixville Pike, West Chester, Pennsylvania.	
Pocopson (Township), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 200 feet upstream of confluence with Brandywine Creek	*187
Approximately 2,500 feet upstream of State Route 3027 (Northbrook Road) ...	*203
Maps available for inspection at the Pocopson Township Hall, 740 Denton Hollow Road, West Chester, Pennsylvania.	
South Coatesville (Borough), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine:	
Approximately 0.89 mile *281 downstream of First Avenue	*281
Approximately 0.71 mile upstream of First Avenue	*305
Maps available for inspection at the South Coatesville Borough Hall, 136 Modena Road, South Coatesville, Pennsylvania.	
Upper Uwchlan (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 600 feet downstream of Dorlan Hill Road	*281
Approximately 3,500 feet upstream of Lyndell Road	*338
Maps available for inspection at the Upper Uwchlan Township Building, 140 Pottstown Pike, Chester Springs, Pennsylvania.	
Uwchlan (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 2,350 feet downstream of Dowlin Forge Road	*260
Approximately 600 feet downstream of Dorlan Hill Road	*281
Maps available for inspection at the Uwchlan Township Hall, 715 North Ship Road, Exton, Pennsylvania.	
Valley (Township), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 3,300 feet downstream Business Route 30 (Lincoln Highway)	*305
Approximately 1,050 feet upstream from Valley Station Drive	*341
Maps available for inspection at the Valley Township Building, 890 West Lincoln Highway, Coatesville, Pennsylvania.	
Wallace (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 3,500 feet upstream of Lyndell Road	*338
Approximately 6,000 feet downstream of North Manor Road	*481
Maps available for inspection at the Wallace Township Building, 451 Fairview Road, Glen Moore, Pennsylvania.	
West Bradford (Township), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 4,200 feet upstream of State Road 842	*195
Approximately 800 feet upstream of State Route 3027 (Northbrook Road) ...	*202
East Branch Brandywine Creek:	
Approximately 5,100 feet downstream of U.S. Route 322 (First one)	*205
Approximately 3,000 feet upstream of U.S. Route 322 (Second one)	*232
Maps available for inspection at the West Bradford Township Hall, 1385 Campus Drive, Downingtown, Pennsylvania.	
West Brandywine (Township), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 150 feet upstream of Kings Highway (State Route 340)	*365
Approximately 600 feet upstream of Kings Highway ..	*367
Maps available for inspection at the West Brandywine Township Hall, 199 LaFayette Road, Coatesville, Pennsylvania.	
West Caln (Township), Chester County (FEMA Docket No. D–7502)	
West Branch Brandywine Creek:	
Approximately 150 feet upstream of Kings Highway (State Route 340)	*365
Approximately 600 feet upstream of Kings Highway ..	*367
Maps available for inspection at the West Caln Township Hall, 721 Kings Highway, Wagontown, Pennsylvania.	
West Nantmeal (Township), Chester County (FEMA Docket No. D–7502)	
East Branch Brandywine Creek:	
Approximately 1.14 miles downstream of North Manor Road	*481
Just downstream of Chestnut Tree Road	*558
Maps available for inspection at the West Nantmeal Township Hall, 455 North Manor Road, Elverson, Pennsylvania.	
TENNESSEE	
Selmer (City), McNairy County (FEMA Docket No. D–7512)	
Cypress Creek:	
Approximately 1,700 feet downstream of South Fourth Street	*433
Approximately 1,855 feet upstream of Purdy Road	*444
Crooked Creek:	
At the confluence with Cypress Creek	*439
Approximately 0.5 mile upstream of Highschool Road	*459
Maps available for inspection at the City Hall, 144 North Second Street, Selmer, Tennessee.	
VERMONT	
Woodstock (Town and Village), Windsor County (FEMA Docket No. D–7510)	
Ottauquechee River:	
Approximately 550 feet upstream of U.S. Route 4	*697
At the upstream corporate limits	*812
Maps available for inspection at Town Hall, 31 The Green, Woodstock, Vermont.	

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

Dated: October 9, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–26429 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980212037–8142-02; I.D. 012798A]

RIN 0648–AJ87

Fisheries of the Exclusive Economic Zone Off Alaska; Halibut Donation Program; Correction

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

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains a correction to the final rule for the Halibut Donation Program that was published in the **Federal Register** on June 12, 1998.

DATES: Effective October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: A final rule was published in the **Federal Register** on 63 FR 32144 (June 12, 1998) to authorize the distribution of Pacific halibut taken as bycatch in the specified groundfish trawl fisheries off Alaska to economically disadvantaged individuals through tax-exempt organizations selected by NMFS to be the authorized distributors.

An error was made by inadvertently omitting a word revision at § 679.26 (b)(1)(vi) from ''salmon'' to read ''fish.''

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Accordingly, 50 CFR part 679 is corrected by making the following correcting amendment:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 1801 *et seq.* and 3631 *et seq.*

§ 679.26 [Corrected]

2. In § 679.26 (b)(1)(vi), remove the word ''salmon'' and replace it with the word ''fish.''

Dated: October 15, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–26451 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 203
Friday, October 19, 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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–093–1]

Mediterranean Fruit Fly; Addition to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding a portion of Los Angeles County, CA, to the list of quarantined areas and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: This interim rule was effective October 15, 2001. We invite you to comment on this docket. We will consider all comments that we receive by December 18, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–093–1, 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. 01–093–1.

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: Mr. Stephen A. Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Mediterranean fruit fly regulations contained in 7 CFR 301.78 through 301.78–10 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States. Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an infestation of Medfly has occurred in the Hyde Park area of Los Angeles County, CA.

The regulations in § 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Medfly has been found.

Less than an entire State will be designated as a quarantined area only if the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed on the interstate movement of regulated articles, and the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Medfly. The boundary lines for a portion of a State being designated as quarantined are set up approximately four-and-one-half miles from the detection sites. The boundary lines may vary due to factors such as the location of Medfly host material, the location of transportation centers such as bus stations and airports, the patterns of persons moving in that State, the number and patterns of distribution of the Medfly, and the use of clearly identifiable lines for the boundaries.

In accordance with these criteria and the recent Medfly findings described above, we are amending § 301.78–3 by adding a portion of Los Angeles County, CA, to the list of quarantined areas. The new quarantined area is described in the rule portion of this document.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the Medfly from spreading to noninfested areas of 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**. The document 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 by Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this interim rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this interim rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in

determining the number and kind of small entities that may incur benefits or costs from the implementation of this interim rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the interstate movement of articles to prevent the spread of injurious plant pests in the United States.

This interim rule amends the Medfly regulations by adding a portion of Los Angeles County, CA, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Medfly into noninfested areas of the United States.

This rule restricts the interstate movement of regulated articles from the newly quarantined area. The portion of Los Angeles County, CA, subject to quarantine under this rule is a predominantly residential area with many apartment buildings. Available information indicates that there are no entities in the quarantined area that sell, process, handle, or move regulated articles. Such entities would include fruit sellers, nurseries, growers, packinghouses, certified farmer's markets, and swapmeets.

The alternative to this interim rule was to make no changes in the regulations. After consideration, we rejected this alternative because if no action was taken, the Medfly would spread to noninfested areas of the continental United States.

This interim rule contains no information collection or recordkeeping requirements.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 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 no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The site-specific environmental assessment and programmatic Medfly environmental impact statement provide a basis for our conclusion that the implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health or the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Internet at *http://www.aphis.usda.gov/ppd/es/ppq/hydepkea.pdf.*

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 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.78–3, paragraph (c) is revised to read as follows:

§ 301.78–3 Quarantined Areas.

* * * * *

(c) The areas described below are designated as quarantined areas:

California

Los Angeles County. That portion of the county in the Hyde Park area bounded by a line beginning at the intersection of La Brea Avenue and Interstate Highway 10; then east along Interstate Highway 10 to Alameda Street; then south along Alameda Street to Washington Boulevard; then east along Washington Boulevard to Sante Fe Avenue; then south along Sante Fe Avenue to Truba Avenue; then south along Truba Avenue to Tweedy Boulevard; then west along Tweedy Boulevard to Alameda Street; then south along Alameda Street to 103rd Street; then west along 103rd Street to Wilmington Avenue; then south along Wilmington Avenue to Interstate Highway 105; then west along Interstate Highway 105 to Hawthorne Boulevard; then north along Hawthorne Boulevard to La Brea Avenue; then north along La Brea Avenue to the point of beginning.

Done in Washington, DC, this 15th day of October 2001 .

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–26329 Filed 10–18–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. LS–01–05]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act (Act) of 1985, to reflect changes in cattle inventories and cattle and beef imports that have occurred since the most recent Board reapportionment rule became effective in 1999. These adjustments are required by the Beef Promotion and Research Order (Order) and would

result in a decrease in Board membership from 110 to 108, effective with the Secretary's appointments for terms beginning early in the year 2003.

DATES: Comments must be received by December 18, 2001.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251.

Comments will be available for public inspection during regular business hours at the above office in Room 2627-South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, on 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988, the Regulatory Flexibility Act, and the Paperwork Reduction Act

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866. This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 *et seq.*). The Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

In the January 26, 2001, issue of ''Cattle,'' the Department's National Agricultural Statistics Service (NASS) estimates that in 2000 the number of cattle operations in the United States totaled about 1.1 million. The majority of these operations subject to the Order, 7 CFR 1260.101 *et seq.*, are considered small businesses under the criteria established by the Small Business Administration.

The proposed rule imposes no new burden on the industry. It only adjusts representation on the Board to reflect changes in domestic cattle inventory and cattle and beef imports. This action would adjust representation on the Board, established under the Act. The adjustments are required by the Order and would result in a decrease in Board membership from 110 to 108.

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901 *et seq.*) and the Order issued thereunder. Domestic representation on the Board is based on cattle inventory numbers, and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(b) of the Order provides that the Board shall be composed of cattle producers and importers appointed by the Secretary from nominations submitted by certified producer organizations. A producer may only be nominated to represent the unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that at least every 3 years and not more than every 2 years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef, and beef products and, if warranted, shall reapportion units and/or modify the number of Board members from units in order to reflect the geographic distribution of cattle production volume in the United States and the volume of cattle, beef, or beef products imported into the United States.

Section 1260.141(d) of the Order authorizes the Board to recommend to the Secretary modifications in the number of cattle per unit necessary for representation on the Board.

Section 1260.141(e)(1) provides that each geographic unit or State that includes a total cattle inventory equal to or greater than 500,000 head of cattle shall be entitled to one representative on the Board. Section 1260.141(e)(2) provides that States that do not have total cattle inventories equal to or greater than 500,000 head shall be grouped, to the extent practicable, into geographically-contiguous units, each of which have a combined total inventory of not less than 500,000 head. Such grouped units are entitled to at least one representative on the Board. Each unit that has an additional one million head of cattle within a unit qualifies for additional representation on the Board as provided in § 1260.141(e)(4). As provided in § 1260.141(e)(3), importers are represented by a single unit, with the number of Board members based on a conversion of the total volume of imported cattle, beef, or beef products into live animal equivalencies.

The initial Board appointed in 1986 was composed of 113 members. Reapportionment based on a 3-year average of cattle inventory numbers and import data, reduced the Board to 111 members in 1990 and 107 members in 1993 before the Board was increased to 111 members in 1996. The Board was decreased to 110 members in 1999 and will be decreased to 108 members with appointments for terms effective early in 2003.

The current Board representation by States or units has been based on an average of the January 1, 1996, 1997, and 1998 inventory of cattle in the various States as reported by NASS of the Department. Current importer representation has been based on a combined total average of the 1995, 1996, and 1997 live cattle imports as published by the Foreign Agricultural Service of the Department and the average of the 1995, 1996, and 1997 live animal equivalents for imported beef products.

Recommendations concerning Board reapportionment were approved by the Board at its August 9, 2001, meeting. In considering reapportionment, the Board reviewed cattle inventories as well as cattle, beef, and beef product import data for the period January 1, 1998, to January 1, 2001. The Board recommended that a 3-year average of cattle inventories and import numbers should be continued. The Board determined that an average of the January 1, 1999, 2000, and 2001 Department cattle inventory numbers would best reflect the number of cattle in each State or unit since publication of the 1999 reapportionment rule.

The Board reviewed the February 28, 2001, Department's Economic Research Service circular, ''Livestock, Dairy and Poultry Situation and Outlook,'' to determine proper importer representation. The Board recommended the use of a combined total of the average of the 1998, 1999, and 2000 cattle import data and the average of the 1998, 1999, and 2000 live animal equivalents for imported beef products. The method used to calculate the total number of live cattle equivalents was the same as that used in the previous reapportionment of the Board. The recommendation for importer representation is based on the most recent 3-year average of data available to the Board at its August 9, 2001, meeting to be consistent with the procedures used for domestic representation.

The Board's recommended reapportionment plan would decrease the number of representatives on the Board from 110 to 108. Five States—Alabama, Illinois, Kentucky, New York, and Wisconsin—lose one member each; two States and one unit—New Mexico, Wyoming, and Importer unit—gain one member each. In addition, because South Carolina no longer has sufficient cattle inventory to qualify for a position on the Board independently, the Board proposes that South Carolina be merged with Georgia, a contiguous State that has only one member, to form a Southeast unit. The combined cattle inventory of South Carolina and Georgia would entitle the Southeast unit to two members on the Board, thus enabling both States to be represented. The States and units affected by the reapportionment plan and the current and proposed member representation per unit are as follows: (Units are listed with the State makeup recommended by the Board.)

States	Current representation	Proposed representation
1 Alabama	2	1
2. Illinois	2	1
3. Kentucky	3	2
4. New Mexico	1	2
5. New York	2	1
6. Wisconsin	4	3
7. Wyoming	1	2
8. Importer unit	7	8
9. Southeast unit		
South Carolina		
Georgia		2
	1	
	1	

The 2001 nomination and appointment process was in progress while the Board was developing its recommendations. Thus, the Board reapportionment as proposed by this rulemaking would be effective, if adopted, with 2002 nominations and appointments that will be effective early in the year 2003.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that 7 CFR part 1260 be amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 *et seq.*

2. In § 1260.141, paragraph (a) and the table immediately following it, are revised to read as follows:

§ 1260.141 Membership of Board.

(a) Beginning with the 2002 Board nominations and the associated appointments effective early in the year 2003, the United States shall be divided into 39 geographical units and 1 unit representing importers, and the number of Board members from each unit shall be as follows:

CATTLE AND CALVES [1]

State/unit	(1,000 head)	Directors
1. Alabama	1,440	1
2. Arizona	833	1
3. Arkansas	1,823	2
4. California	5,117	5
5. Colorado	3,167	3
6. Florida	1,820	2
7. Idaho	1,940	2
8. Illinois	1,497	1
9. Indiana	953	1
10. Iowa	3,683	4
11. Kansas	6,617	7
12. Kentucky	2,303	2
13. Louisiana	887	1
14. Michigan	1,013	1
15. Minnesota	2,533	3
16. Mississippi	1,100	1
17. Missouri	4,333	4
18. Montana	2,583	3
19. Nebraska	6,650	7
20. Nevada	517	1
21. New Mexico	1,617	2
22. New York	1,433	1
23. North Carolina	957	1
24. North Dakota	1,927	2
25. Ohio	1,237	1
26. Oklahoma	5,183	5
27. Oregon	1,447	1
28. Pennsylvania	1,653	2
29. South Dakota	3,950	4
30. Tennessee	2,167	2
31. Texas	13,900	14
32. Utah	903	1
33. Virginia	1,650	2
34. Wisconsin	3,383	3
35. Wyoming	1,563	2
36. Northwest		1
Alaska	11	
Hawaii	162	
Washington	1,187	
Total	1,408	
37. Northeast		1
Connecticut	65	
Delaware	28	
Maine	99	
Massachusetts	55	
New Hampshire	45	
New Jersey	50	
Rhode Island	6	
Vermont	300	
Total		647
38. Mid-Atlantic		1
District of Columbia	0	
Maryland	243	
West Virginia	420	
Total	663	
39. Southeast		2
Georgia	1,293	
South Carolina	463	
Total	1,756	
40. Importer [2]	7,654	8

[1] 1999, 2000, and 2001 average of January 1 cattle inventory data.

[2] 1998, 1999, and 2000 average of annual import data.

* * * * *

Dated: October 12, 2001.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 01–26395 Filed 10–18–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[No. LS–99–20]

Amendment to the Beef Promotion and Research Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Beef Promotion and Research Rules and Regulations (Rules and Regulations) established under the Beef Promotion and Research Act of 1985 (Act) to provide the opportunity for a producer to pay the $1-per-head assessment to the Qualified State Beef Council (QSBC) located in the producer's State of residence prior to sale, subject to certain conditions.

DATES: Written comments must be received by December 18, 2001. Written comments on the information collection requirements must be received on or before December 18, 2001.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251. Comments received may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. State that your comments refer to Docket No. LS–99–20.

Pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), also send comments regarding the merits of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address. Comments concerning the information collection and recordkeeping under the PRA should also be sent to the Desk Officer for Agriculture, Offices of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch on 202/720–1115 or fax 202/720–1125.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988, the Regulatory Flexibility Act, and the Paperwork Reduction Act

The Department of Agriculture (Department) is proposing this rule in conformance with Executive Order 12866. This rule has been determined not to be significant and, therefore, has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.*), the Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small business entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

The Department's National Agricultural Statistics Service estimates that in calendar year 2000 the number of cattle operations in the United States totaled approximately 1.1 million, including feedlot operations. There are also 45 QSBCs in the United States. The majority of these operations are considered small businesses under the criteria established by the Small Business Administration.

The proposed rule imposes no significant burden on the industry as it merely gives producers the opportunity to voluntarily pay the $1-per-head assessment on cattle of their own production prior to sale and to remit the assessments to the QSBC located in the producer's State of residence.

The impact on QSBCs would be a redistribution of an estimated maximum of one-half million dollars of the $40 million currently retained annually in total by the 45 QSBCs. The agency estimates that up to 6 million head or 20 percent of the approximately 30 million head of steers and heifers slaughtered annually are sold for slaughter under retained ownership. The agency also estimates that assessments on up to one-sixth of the cattle (1 million head) would be paid in advance to QSBCs. If the $1 assessment were paid in advance to QSBCs on these cattle, the QSBCs' 50 percent share of up to $1 million in assessments or as much as $500,000 would be redistributed among the QSBCs.

The major cattle feeding States of Texas, Nebraska, Kansas, Colorado, and Oklahoma could reasonably be expected to account for up to 80 percent of the $500,000 in reduced revenue to QSBCs annually. These States collect an average of $8 million annually and retain one-half that amount or $4 million. Assuming that the revenue to each of these five States available for State directed programs was reduced by an average of $80,000, it would represent a 2-percent decrease in the average revenue available for State directed programs in these States.

The remaining 40 QSBCs have annual State budgets that average about $500,000. An estimated net increase in annual income for these States, as a result of the advance payment of assessments, could average up to $10,000 per State representing a 2-percent increase.

Producers wishing to direct payment of assessments to the QSBC in the producers' State of residence when cattle are sent to another State for feeding under retained ownership would complete a form which would be provided to affected parties including the QSBC, the feedlot, and the packer or the collecting person.

Copies of the completed ''Certification of Producer Directed Payment of Cattle Assessments'' form shall be maintained on file by the producer, the QSBC or the Board, the feedlot operator, and the purchaser of the cattle for 2 years.

We estimate the average cost of the reporting burden per respondent would be $16 annually.

We estimate the total average cost of the recordkeeper burden per recordkeeper would be $8 annually.

The Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In compliance with OMB regulations [5 CFR part 1320] which implements PRA, the information collection requirements contained in this proposed rule are being submitted for OMB approval.

Title: Certification of Producer Directed Payment of Assessments.

OMB Number: 0581–New collection.

Expiration Date of Approval: 3 years from date of approval.

Type of Request: Approval of new information collection.

Abstract: The Act provides for a program of promotion, research, consumer information, and industry information funded by assessments paid by beef producers each time cattle are sold and by importers of cattle and beef products upon importation.

Assessments on cattle and beef imports are collected by the U.S. Customs Service at the rate of $1 per head or the equivalent. An assessment of $1 per head is due from the producer each time a producer sells cattle in the United States. The assessment is to be collected by the purchaser or other ''collecting person'' as provided in the rules and regulations. The producer assessments are then remitted to QSBCs in 45 States and to the Cattlemen's Beef Promotion and Research Board (Board) in the remaining States. QSBCs retain one-half of the $1 assessment for use in State directed programs and forward the other half to the Board.

Currently, QSBCs in the traditional cattle feeding States (e.g., Texas, Kansas, Nebraska, Oklahoma, and Colorado) collect and retain assessments on cattle sold that are owned by producers residing in other States. This benefits QSBCs in the States that have large numbers of cattle in feedlots owned by producers residing in other States. Some producers retain ownership of cattle and transport them to one of the cattle feeding States. To provide producers with more flexibility and to provide the opportunity for a more equitable distribution of assessment funds to States based on cattle ownership, the proposed ''Certification of Producer Directed Payment of Cattle Assessments'' form would be made available for use by producers who want the QSBC located in their States of residence to receive assessment funds rather than the QSBC in the State where the cattle are fed.

1. Certification of Producer Directed Payment of Assessments.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average .20 hour per response.

Respondents: Producers wishing to direct payment of assessments to the QSBC in the producers' State of residence when cattle are sent to another State for feeding under retained ownership would use the form.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 800 hours.

Total cost: $16,000.

2. Maintenance of records: 2 years.

Estimate of Burden: The public recordkeeping burden for keeping this document is estimated to average .10 hour per recordkeeper.

Recordkeepers: Producers, QSBCs, feedlot operators, and purchasers.

Estimated Number of Recordkeepers: 1,260.

Estimated Total Recordkeeping Hours: 504 hours.

Estimated Total Cost: $10,080.

The total average cost of the estimated annual reporting burden per respondent would be: $16.00.

The total average cost of the recordkeeping burden per recordkeeper would be: $8.00.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments concerning the information collection and recordkeeping requirements contained in this action should reference the Docket Number LS–99–20, together with the date and page number of this issue of the **Federal Register**. Comments may be sent to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251; telephone: 202/720–1115 or Fax: 202/720–1125. All comments received will be available for public inspection during regular business hours at the above address. Comments also should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

This proposed rule would amend the rules and regulations published in the **Federal Register** on February 26, 1988 (53 FR 5749) (7 CFR § 1260.301 to § 1260.315). These regulations further define the requirements of the Beef Promotion and Research Order (Order) (51 FR 21632) (7 CFR § 1260.101 to § 1260.217) under the Beef Promotion and Research Act of 1985 (Act), 7 U.S.C. 2901–2911.

Background and Proposed Change

The Act authorizes the establishment of a national beef promotion and research program. The final Order establishing a beef promotion and research program was published in the **Federal Register** on July 18, 1986, (51 FR 21632) and assessments began on October 1, 1986. The program is administered by the Board which is composed of 110 cattle producers and importers. The program is funded by a $1-per-head assessment on producer marketings of cattle in the United States and an equivalent amount on imported cattle, beef, and beef products. In 45 States, QSBCs receive the $1-per-head of cattle assessment remitted under the program and retain up to half of the $1 for State-directed programs and remit the remainder to the Board. The Board receives all import assessments and all producer assessments in the five States with relatively small cattle numbers that do not have QSBCs. In 2000, the 45 QSBCs received a total of about $80 million in assessments. QSBCs retained about $40 million and remitted approximately $40 million to the Board.

The domestic assessment, due each time cattle are sold by a producer, is collected by the buyer or ''collecting person'' and remitted to the Board or QSBC. The term ''producer'' is defined as follows: ''means any person who owns or acquires ownership of cattle; provided, however, that a person shall not be considered a producer within the meaning of this subpart if (a) the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee; or (b) the person (1) acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third-party, (2) resold such cattle no later than 10 days from the date on which the person acquired ownership, and (3) certified, as required by regulations prescribed by the Board and approved by the Secretary, that the requirements of this provision have been satisfied.''

When cattle are sold within 10 days of purchase by a person who is not a producer under the above definition, the collecting person is not required to collect the $1 assessment from the person (seller), if the seller provides the collecting person with a Statement of Certification of Non-Producer Status on a form approved by the Board and the Secretary. The person claiming non-producer status must submit to the

collecting person a Statement of Certification of Non-Producer Status ''at the time of sale'' in lieu of paying the assessment.

In a similar fashion this proposed modification to the regulations to permit producer directed payment of assessments would result in the collecting person, at the time of sale, collecting a document certifying the assessment had been paid in advance by the producer.

It is believed that this producer directed payment option would be used by producers of a relatively small share of all cattle sold. It would apply only to cattle of a producer's own production transported to another State under retained ownership for feeding prior to sale as slaughter cattle. Utilizing this option would permit a producer who retains ownership of cattle to ensure that the QSBC located in the State where the producer resides receives the $1 checkoff rather than the QSBC in the State in which the cattle are located when sold. This could increase checkoff revenue for many QSBCs such as those located in the southeastern United States that currently do not receive revenue from cattle owned and sold by producers residing in the southeastern States who use feedlots in States such as Texas, Kansas, Nebraska, Oklahoma, and Colorado to finish cattle before selling the cattle to packers.

Since States retain one-half of the $1-per-head checkoff for use in State directed programs, providing producers with the flexibility and the opportunity to direct payment of the assessment to their home State likely would increase revenue in many States such as Florida, Georgia, Alabama, and Mississippi with limited feedlot capacity.

The Department estimates that a maximum of $500,000 of the total $40 million currently retained annually by the 45 QSBCs would be redirected to States that currently do not receive revenue from cattle owned and sold by their producers. Approximately 6 million head, or 20 percent, of the estimated 30 million head of steers and heifers slaughtered annually are sold for slaughter under retained ownership. The Department estimates that assessments on up to one-sixth of the cattle (1 million head) would be paid in advance under this proposal to QSBCs.

The major cattle feeding States of Texas, Nebraska, Kansas, Colorado, and Oklahoma could reasonably be expected to account for up to 80 percent of the $500,000 in reduced revenue to QSBCs annually. These States collect an average of $8 million annually and retain one-half that amount or $4 million. Assuming that the revenue to each of these five States available for State directed programs was reduced by an average of $80,000, it would represent a 2-percent decrease in the average revenue available for State directed programs in these States.

The remaining 40 QSBCs have annual State budgets that average about $500,000. An estimated net increase in annual income for these States, as a result of the advance payment of assessments, could average up to $10,000 per State representing a 2-percent increase.

Producers desiring to direct payment of assessments could do so subject to the requirements of a new paragraph § 1260.311(f) which would read as follows:

''(f)(1) A producer who transports, prior to sale, cattle of that producer's own production to another State, may elect to make a directed payment of the $1-per-head assessment in advance to the QSBC in the State in which the producer resides, or to the Board if there is no QSBC in such State, provided that the producer fulfills the requirements set forth below:

(i) transports the cattle under retained ownership to a feedlot or similar location, and the cattle remain at such location, prior to sale, for a period not less than 30 days; and

(ii) the producer, at the time of transport, signs a Certification of Producer Directed Payment of Cattle Assessments form indicating that the assessment has been paid in advance. A copy of the certification form establishing the payment of the assessment shall be sent by the producer with the assessment when remitted to the QSBC or the Board. The producer also shall send a copy of the certification form to the feedlot operator at the time the cattle are delivered. A copy of the certification form also shall be given to the purchaser of the cattle by the feedlot operator at the time of sale.

(2) The certification form will include the following information:

1. Producer's Name.
2. Producer's social security number or Tax I.D. number.
3. Producer's address (street address or P.O. Box, city, State, and zip code).
4. Signature of Producer.
5. Producer's State of residence.
6. Number of cattle shipped to out of State feedyard under retained ownership.
7. Date cattle shipped.
8. State where cattle will be on feed.
9. Name of feedyard.
10. Address of feedyard.

(3) For those cattle for which the assessment has been producer directed and paid in advance pursuant to subparagraph (1) above, the purchaser of the cattle shall not be required to collect and remit the assessment, but shall maintain on file a copy of the Certification of Producer Directed Payment of Cattle Assessments form completed and signed by the producer who originally transported the cattle under retained ownership.

(4) For those cattle for which the assessment has been producer directed and paid in advance pursuant to subparagraph (1) above, copies of the completed Certification of Producer Directed Payment of Cattle Assessments form shall be maintained on file by the producer, the QSBC or the Board, the feedlot operator, and the purchaser of the cattle for 2 years.''

List of Subjects in 7 CFR Part 1260

Advertising, Agricultural research, Imports, Marketing agreements, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that title 7 of the CFR part 1260 be amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation of part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 *et seq.*

2. Paragraph (a) of § 1260.311 is revised to read as follows:

§ 1260.311 Collecting persons for purposes of collection of assessments.

* * * * *

(a) Except as provided in paragraphs (b), (c), and (f) of this section, each person making payment to a producer for cattle purchased in the United States shall collect from the producer an assessment at the rate of $1 per head of cattle purchased and shall be responsible for remitting assessments to the QSBC or the Board as provided in § 1260.312. The collecting person shall collect the assessment at the time the collecting person makes payment or any credit to the producer's account for the cattle purchased. The person paying the producer shall give the producer a receipt indicating payment of the assessment.

* * * * *

3. Paragraph (c) of § 1260.311 is revised to read as follows:

* * * * *

(c) In the States listed below there exists a requirement that cattle be brand inspected by State authorized inspectors prior to sale. In addition, when cattle

are sold in the sales transactions listed below in those States, these State authorized inspectors are authorized to, and shall, except as provided for in paragraph (f) of this section, collect assessments due as a result of the sale of cattle. In those transactions in which inspectors are responsible for collecting assessments, the person paying the producer shall not be responsible for the collection and remittance of such assessments. The following chart identifies the party responsible for collecting and remitting assessments in these States:

States	Sales through auction market	Sales to a slaughter/ packer	Sales to a feedlot	Sales to an order buyer/ dealer	Country sales [1]
Arizona	CP	CP	CP	B	B
California	CP	CP	B	B–CP	B
Colorado	CP	B	B	B	B
Idaho	CP	CP	B	B	B
Montana	CP	B	B	B	B
Nebraska	CP	CP	B–CP	B–CP	B–CP
Oregon	CP	B–CP	B	B	B
New Mexico	CP	B–CP	B–CP	B–CP	B–CP
Utah	CP	B–CP	B	B	B
Washington	CP	CP	B	B–CP	B
Wyoming	CP	B	B	B	B

Key:
B—Brand inspector has responsibility to collect and remit assessments due.
CP—The person paying the producer shall be the collecting person and has responsibility to collect and remit the assessments due.
B–CP—Brand inspector has responsibility to collect; however, when there has not been a physical brand inspection the person paying the producer shall be the collecting person and has the responsibility to collect and remit assessments due.
[1] For the purpose of this subpart, the term ''country sales'' shall include any sales not conducted at an auction or livestock market and which is not a sale to a slaughter/packer, feedlot, or order buyer or dealer.

* * * * *

4. A new paragraph (f) of § 1260.311 is added to read as follows:

(f)(1) A producer who transports, prior to sale, cattle of that producer's own production to another State, may elect to make a directed payment of the $1-per-head assessment in advance to the QSBC in the State in which the producer resides, or to the Board if there is no QSBC in such State, provided that the producer fulfills the requirements set forth below:

(i) transports the cattle under retained ownership to a feedlot or similar location, and the cattle remain at such location, prior to sale, for a period not less than 30 days; and

(ii) the producer, at the time of transport, signs a Certification of Producer Directed Payment of Cattle Assessments form indicating that the assessment has been paid in advance. A copy of the certification form establishing the payment of the assessment shall be sent by the producer with the assessment when remitted to the QSBC or the Board. The producer also shall send a copy of the certification form to the feedlot operator at the time the cattle are delivered. A copy of the certification form also shall be given to the purchaser of the cattle by the feedlot operator at the time of sale.

(2) The certification form will include the following information:

1. Producer's Name.

2. Producer's social security number or Tax I.D. number.

3. Producer's address (street address or P.O. Box, city, State, and zip code).

4. Signature of Producer.

5. Producer's State of residence.

6. Number of cattle shipped to out of State feedyard under retained ownership.

7. Date cattle shipped.

8. State where cattle will be on feed.

9. Name of feedyard.

10. Address of feedyard.

(3) For those cattle for which the assessment has been producer directed and paid in advance pursuant to paragraph (f)(1) of this section, the purchaser of the cattle shall not be required to collect and remit the assessment, but shall maintain on file a copy of the Certification of Producer Directed Payment of Cattle Assessments form completed and signed by the producer who originally transported the cattle under retained ownership.

(4) For those cattle for which the assessment has been producer directed and paid in advance pursuant to paragraph (f)(1) of this section, copies of the completed Certification of Producer Directed Payment of Cattle Assessments form shall be maintained on file by the producer, the QSBC or the Board, the feedlot operator, and the purchaser of the cattle for 2 years.

Dated: October 12, 2001.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 01–26394 Filed 10–18–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 852

RIN 1901–AA90

Guidelines for Physicians Panel Determinations on Worker Requests for Assistance in Filing for State Workers' Compensation Benefits

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking; announcement of public hearing.

SUMMARY: This document announces a public hearing to be held on October 25, 2001, in order to obtain comments regarding a notice of proposed rulemaking published in the **Federal Register** on September 7, 2001. This is the second public hearing held on this proposed rulemaking. The first hearing was held on October 10, 2001, at the Forrestal Building in Washington, D.C. Testimony submitted at that hearing can be found at the Office of Advocacy website: www.eh.doe.gov/advocacy. Testimony submitted at the October 25 hearing will also be made available at this website.

DATES: Oral views, data, and arguments may be presented at the public hearing, beginning at 4 p.m. on October 25, 2001. DOE must receive requests to speak at the public hearing and a fax of your statements no later than 4 p.m., October 24, 2001. DOE is requesting that speakers bring four (4) copies of their written comments and prepared statements for the public hearing.

ADDRESSES: Those wishing to speak should contact Judy Keating at 202–586–7551, and fax a copy of their statements to Ms. Keating at 202–586–6010 in advance of the meeting (no later than 4 p.m. October 24, 2001). DOE requests that speakers bring four (4) copies of their statements to distribute to the media and the public. Speakers who have not preregistered will be allowed to speak once all registered speakers are heard. The meeting will not conclude until all those wishing to speak are heard.

The hearing will begin at 4 p.m. at the Radisson Hotel Cincinnati Airport (adjacent to the Cincinnati-Northern Kentucky International Airport in Hebron, Kentucky). You can find more information concerning public participation in this rulemaking proceeding in Section IV, ''Opportunity for Public Comment,'' of the previously published notice of proposed rulemaking (66 FR 46742).

Written comments can continue to be addressed to Ms. Loretta Young, Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, ''PHYSICIAN PANEL RULE COMMENTS.'' The deadline for receiving written comments is November 8, 2001.

FOR FURTHER INFORMATION CONTACT: Judy Keating, Office of Advocacy, EH–8, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 586–7551; fax: 202–586–6010; e-mail: *judy.keating@eh.doe.gov.*

Issued in Washington, DC, on October 17, 2001.

Steven Cary,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 01–26510 Filed 10–17–01; 12:29 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–20–AD]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. CFM56–5 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to CFM International, S.A. (CMFI) CFM56 –5 series turbofan engines. This proposal would require replacement of the magnetic drain plug on certain part number (P/N) air turbine engine starters manufactured by Honeywell Engines & Systems. This proposal is prompted by three instances of uncontained air turbine engine starter failures, resulting in cowl damage. The actions specified by the proposed AD are intended to prevent uncontained failure of the starter and possible damage to the airplane.

DATES: Comments must be received by December 18, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–20–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov.* Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from Honeywell Engines & Systems, Technical Publications Department, 111 South 34th Street, Phoenix, Arizona 85034; telephone (602) 365–5535, fax (602) 365–5577.This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7152, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–20–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–20–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The FAA has received three reports of uncontained failures of air turbine starters that resulted in cowl damage. A number of air turbine starters have been damaged by running without oil. Investigations of the incidents have shown that over torque of the magnetic drain plug, P/N 572–510–9004, can result in the failure of the plug, which can allow oil to drain from the starter housing. Failure of the plug may not be immediately evident when it is over torqued. Replacement of the existing magnetic drain plug, P/N 572–510–9004, with a new redesigned magnetic drain plug, P/N 572–8510–9152, would reduce the potential for oil loss from the turbine starter if the plug is inadvertently over torqued, and would prevent uncontained failure of the starter due to loss of oil and possible damage to the airplane.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Honeywell Service Bulletin 3505582–80–1706, dated March 8, 2000, that describes procedures for replacing magnetic drain plugs, P/N 572–510–9004 and packings, P/N S9413–555, with new redesigned drain plugs P/N 572–8510–9152, and packings, P/N S3225–905; and re-

marking the air turbine engine starter with a new P/N.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other CFMI CFM56–5 series turbofan engines of the same type design, with Honeywell Engines & Systems air turbine engine starters, P/N's 3505582–2, 3505582–3, 3505582–4, 3505582–12, 3505582–14, 3505582–15, 3505582–22, and 3505582–23, installed, the proposed AD would require the following actions within 500 cycles-in-service after the effective date of the proposed AD:

- Replacement of magnetic drain plug, P/N 572–510–9004, with a new redesigned magnetic drain plug, P/N 572–8510–9152.
- Replacement of packing, P/N 39413–555, with packing, P/N S3225–905.
- Re-marking of the air turbine engine starter after replacement of the magnetic drain plug.

Cost Analysis

The FAA estimates that about 512 engines installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately 0.1 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $787 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $406,016.

Regulatory Analysis

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

CFM International, S.A.: Docket No. 2001–NE–20–AD.

Applicability

This airworthiness directive (AD) is applicable to CFM International, S.A. CFM56–5 series turbofan engines with Honeywell Engines & Systems air turbine engine starters, part numbers (P/N's) 3505582–2, 3505582–3, 3505582–4, 3505582–12, 3505582–14, 3505582–15, 3505582–22, and 3505582–23 installed. These engines are installed on, but not limited to Airbus Industries A318, A319, A320, A321 and A340 airplanes.

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

Compliance

Compliance with this AD is required within 500 cycles-in-service after the effective date of this AD, unless already done.

To prevent uncontained failure of the starter due to loss of oil and possible damage to the airplane, do the following:

(a) Replace the magnetic drain plug, P/N 572–510–9004, with a new redesigned magnetic drain plug P/N 752–8510–9152; replace the packing P/N S3225–905, with packing P/N 39413–555, and remark the air turbine engine starter in accordance with paragraphs 2.A. through 2. C. of the Accomplishment Instructions of Honeywell Service Bulletin 3505582–80–1706, dated March 8, 2000.

(b) Replenish the air turbine starter.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Burlington, Massachusetts, on October 11, 2001.

Donald E. Plouffe,

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

[FR Doc. 01–26325 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2001–10286; Airspace Docket No. 01–AEA–11]

RIN 2120–AA66

Proposed Amendment of Restricted Area R–5201, Fort Drum, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the designated altitudes for Restricted Area R–5201 (R–5201), Fort Drum, NY, by designating the ceiling of the airspace at 23,000 feet mean sea level (MSL) on a year-round basis. Currently, the upper altitude limit for the restricted area changes between 23,000 feet MSL from April 1 through September 30; and 20,000 feet MSL, from October 1 through March 31. Increased training requirements at Fort Drum have resulted in a regular need for

restricted airspace up to 23,000 feet MSL throughout the year. This proposed modification would not change the current boundaries, time of designation, or activities conducted in R–5201.

DATES: Comments must be received on or before December 3, 2001.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket numbers FAA–2001–10286/Airspace Docket No. 01–AEA–11 at the beginning of your comments.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, NY 11434.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Nos. FAA–2001–10286/Airspace Docket No. 01–AEA–11.'' The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land use aspects to: Moira D. Keane, Environmental Specialist, FAA, Eastern Regional Air Traffic Division, 1 Aviation Plaza, Jamaica, NY 11434. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661) using a modem and suitable communications software.

Internet users may reach the FAA's web page at *http://www.faa.gov* or the **Federal Register**'s web page at *http://www.access.gpo.gov/nara* for access to recently published rulemaking documents.

Any person may also obtain a copy of this NPRM by submitting a request to the FAA, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

Restricted airspace at Fort Drum, NY, dates back to at least the 1960's. The current designated altitudes for the restricted area were based on past use of the installation as a National Guard facility which had primarily seasonal training requirements. The higher altitude designated for the period April 1 through September 30 reflected increased use of the restricted area by reserve components during annual summer training periods. In 1985, an U.S. Army unit, the 10th Mountain Division, was activated at Fort Drum with a full time, year-round training requirement. In addition, over the years, use of R–5201 has increased by U.S. Air Force units. The reduction of R–5201's upper limit to 20,000 feet MSL during the period October 1 through March 31 has increasingly become a limiting factor to the year-round training needs at Fort Drum.

The Proposal

The FAA is considering an amendment to 14 CFR part 73 to amend the designated altitudes of R–5201 Fort Drum, NY. Specifically, this action proposes to change the designated altitudes for R–5201 from ''Surface to 23,000 feet MSL, April 1 through September 30; surface to 20,000 feet MSL, October 1 through March 31'' to ''Surface to 23,000 feet MSL.'' This proposal would delete the seasonal changes to the upper altitude limit and establish 23,000 feet MSL as the upper altitude limit on a year-round basis. The 20,000 feet MSL limit adversely affects training at Fort Drum and requires units to alter their training profiles when 23,000 feet is not available. This is disruptive to training continuity and precludes the most cost-effective accomplishment of training activities. The U.S. Army has proposed this modification to better accommodate existing and forecast training requirements at Fort Drum. This action would not change the current boundaries, time of designation, or activities conducted within R–5201. Thus, as under the current rule, the restricted area's designated altitude remains 23,000 feet MSL at all times between April 1 and September 30. Under the proposed rule, the restricted area's designated altitude would change from 20,000 feet MSL to 23,000 feet MSL for the October 1 to March 31 period. Because the time of designation is not being amended, between October 1 and March 31, the restricted area would continue to be in effect only between 0600 and 1800 local time, unless a Notice to Airmen is issued 48 hours in advance; and it would continue to be in effect continuously between April 1 and September 30.

Section 73.52 of 14 CFR part 73 was republished in FAA Order 7400.8J, dated September 20, 2001.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subjected to the appropriate environmental analysis in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.52 [Amended]

2. § 73.52 is amended as follows:

* * * * *

R–5201 Fort Drum, NY [Amended]

By removing ''Designated altitudes. Surface to 23,000 feet MSL, April 1 though September 30; surface to 20,000 feet MSL, October 1 through March 31'' and substituting ''Designated altitudes. Surface to 23,000 feet MSL'' in its place.

* * * * *

Issued in Washington, DC on October 12, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–26462 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–019]

Standards for Business Practices of Interstate Natural Gas Pipelines

October 12, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend its regulations governing standards for conducting business practices with interstate natural gas pipelines to require that interstate pipelines permit releasing shippers to recall released capacity and renominate that recalled capacity at any of the scheduling opportunities provided by interstate pipelines. The proposed rule is designed to synchronize the Commission's regulation of recalled capacity with its standards for intra-day nominations and to provide releasing shippers with increased flexibility in structuring capacity release transactions.

DATES: Comments are due November 19, 2001.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2294.

Marvin Rosenberg, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1283.

Kay Morice, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0507.

SUPPLEMENTARY INFORMATION:

Standards for Business Practices of Interstate Natural Gas Pipelines

[Docket Nos. RM96–1–019]

Regulation of Short-Term Natural Gas Transportation Services;

[Docket No. RM98–10–008]

Regulation of Interstate Natural Gas Transportation Services

[Docket No. RM98–12–008]

The Federal Energy Regulatory Commission (Commission) proposes to amend § 284.12(c)(1)(ii) of its open access regulations to require that interstate pipelines permit releasing shippers to recall released capacity and renominate that recalled capacity at any of the scheduling opportunities provided by interstate pipelines. The proposed rule is intended to create more flexibility for firm capacity holders on interstate pipelines by synchronizing the Commission's regulation of recalled capacity with its standards for intra-day nominations. The proposed rule is intended to benefit the public by providing firm capacity holders with increased flexibility in structuring capacity release transactions that will result in enhanced competition across the interstate pipeline grid.

I. Background

In Order No. 636, the Commission adopted regulations permitting shippers (releasing shippers) to release their capacity to other shippers (replacement shippers).[1] Under these regulations, releasing shippers were permitted to ''release their capacity in whole or in part, on a permanent or short-term basis, without restriction on the terms and conditions of the release.'' [2] The regulation permits releasing shippers to impose terms on a release transaction under which the releasing shipper reserves the right to recall that capacity to use the capacity itself. As an example, a shipper might include a recall condition in the event that temperature drops below a pre-determined level.[3]

In July 1996, in Order No. 587,[4] the Commission incorporated by reference

[1] 18 CFR 284.8 (2001).

[2] 18 CFR 284.8(b).

[3] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636, 57 FR 13267 (Apr. 16, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,939, at 30,418 (Apr. 8, 1992).

[4] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,038 (Jul. 17, 1996).

consensus standards approved by the Gas Industry Standards Board (GISB) designed to standardize business practices and communication protocols of interstate pipelines in order to create a more integrated and efficient pipeline grid. GISB is a private, consensus standards developer composed of members from all segments of the natural gas industry.

One aspect of GISB's standards adopted in Order No. 587 covered capacity release transactions. Of relevance here, two standards, 5.3.6 and 5.3.7, apply to recalls of capacity release transactions.

Standard 5.3.6: If the releasing shipper wishes to recall capacity to be effective for a gas day, the notice should be provided to the transportation service provider and the acquiring shipper no later than 8 A.M. Central Clock Time on nomination day.[5]
Standard 5.3.7: There should be no partial day recalls of capacity. Transportation service providers should support the function of reputting by releasing shippers.[6]

In this context, a partial day recall refers to a recall condition that applies only to part of gas day, rather than the full gas day.[7]

In 1996, when GISB first adopted these standards, GISB's standards provided for one nomination, at 11:30 a.m. CCT[8] for the next gas day and only one intra-day nomination at an indeterminate time. In order to create a more standardized intra-day nomination schedule,[9] GISB amended its standards to provide for three standardized intra-day nomination opportunities: an Evening nomination at 6 p.m. CCT to take effect on the next gas day, an Intra-Day 1 nomination at 10 a.m. CCT to take effect at 5 p.m. CCT on the same gas day, and an Intra-Day 2 nomination at 5 p.m. CCT to take effect at 9 p.m. CCT on the same gas day.[10] GISB, however, has not amended its capacity release recall standards to take into account its adoption of these standardized intra-day nomination opportunities.

In Order No. 637, the Commission adopted § 284.12(c)(1)(ii) of its regulations which requires interstate pipelines to ''permit shippers acquiring released capacity to submit a nomination at the earliest available nomination opportunity after the acquisition of capacity.'' [11] The purpose of this regulatory change was to permit capacity release transactions to take place on an intra-day basis so that released capacity can compete with pipeline capacity on a comparable basis.[12] The adoption of § 284.12(c)(1)(ii) now permits shippers to acquire released capacity at any intra-day nomination opportunity and to nominate coincident with their acquisition of capacity.[13]

On February 1, 2001, GISB filed a report with the Commission, in Docket No. RM98–10–000, concerning its development of standards regarding partial day recalls of capacity. According to GISB, some members believed that partial day recalls fell within the purview of the scheduling equality requirements of Order No. 637, while others did not. Other members, GISB asserts, believe that partial day recalls are a valid business practice, irrespective of whether this practice is required by Order No. 637. Due to these disagreements, GISB reports it has been unable to reach consensus on how to proceed.

On March 16, 2001, AGA filed, in Docket Nos. RM98–10–008 and RM98–12–008,[14] a ''Reply to February 1, 2001, Gas Industry Standards Board Report and Petition for Clarification and Directive from FERC Regarding Requirement for Capacity Release Scheduling Equality.'' AGA argues that the Commission should require pipelines to allow partial day recalls as part of their compliance with § 284.12(c)(1)(ii). Ten comments to AGA's request were filed.[15]

II. Discussion

The Commission is proposing to revise § 284.12(c)(1)(ii) of its regulations to require pipelines to permit recalls of capacity at each nomination opportunity. Specifically, the Commission is proposing to require pipelines to permit shippers to recall released capacity and renominate such recalled capacity at each nomination opportunity provided by the pipeline according to the notice and bumping provisions applicable to interruptible shippers.[16]

This proposal will enable releasing shippers to coordinate recalls of capacity release transactions and renominations of that capacity with the current intra-day nomination cycle. Under this proposal, recall rights would operate according to the same timelines that now apply to interruptible transportation.

This proposal is intended to ensure that the regulations relating to capacity release recalls remain consistent with the original intent of the Commission's capacity release regulations by providing releasing shippers with the flexibility to structure capacity release transactions that best fit their business needs. The proposal also seeks to foster greater competition for pipeline capacity by creating parity between scheduling of capacity release transactions and scheduling of pipeline interruptible service. By enabling releasing shippers to recall and renominate capacity quickly, they will have greater incentive to release capacity, providing capacity purchasers with an alternative to purchasing pipeline interruptible service. At the same time, this proposal will provide replacement shippers whose capacity is recalled the same advance notice and

[5] 18 CFR 284.12(b)(1)(v) (2001), Capacity Release Related Standard 5.3.6.

[6] 18 CFR 284.12(b)(1)(v) (2001), Capacity Release Related Standard 5.3.7.

[7] Under the GISB standards, a gas day runs from 9 a.m. central clock time (CCT) on Day 1 to 9 a.m. CCT the next day (Day 2). 18 CFR 284.12(b)(1)(i), Nominations Related Standards 1.3.1.

[8] CCT refers to Central Clock Time, which includes an adjustment for day light savings time. *See* 18 CFR § 284.12(b)(1)(i), Nominations Related Standards 1.3.1.

[9] *See* Order No. 587–C, 62 FR at 10687, FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,050, at 30,585 (rejecting a proposed GISB intra-day nomination standard for being vague and non-standardized and providing additional time for GISB to develop a standardized intra-day nomination schedule).

[10] 18 CFR 284.12(b)(1)(i) (2001), Nominations Related Standard 1.3.2.

[11] 18 CFR 284.12(c)(1)(ii) (2001).

[12] Regulation of Short-Term Natural Gas Transportation Services, Order No. 637, 65 FR 10156, 101–58–60 (Feb. 25, 2000), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,091, at 31,297 (Feb. 9, 2000).

[13] Prior to Order No. 637, GISB's existing capacity release nomination standards had not been amended to reflect the intra-day nomination standards. Thus, prior to Order No. 637, a shipper acquiring released capacity had to acquire the capacity and notify the pipeline by 9 a.m. CCT to nominate at 11:30 a.m. CCT for the next gas day and could not avail itself of any intra-day nomination opportunities for the current gas day.

[14] Because the Commission is issuing this NOPR on the issues raised in the AGA filing, Docket Nos. RM98–10–008 and RM98–12–008 are being terminated.

[15] Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities (ConEd), Delmarva Power & Light Company (Delmarva), Duke Energy Gas Transmission (Algonquin Gas Transmission Company, East Tennessee Natural Gas Co., Egan Hub Partners, L.P., and Texas Eastern Transmission, L.P.) (DEGT), Dynegy Marketing and Trade (Dynegy), El Paso Pipeline Companies (El Paso), Enron Interstate Pipelines (Enron), Interstate Natural Gas Association of America (INGAA), Keyspan Delivery Companies (Keyspan), Natural Gas Supply Association (NGSA), Public Service Commission of the State of New York (PSCNY).

[16] The Commission also is proposing to rescind the incorporation by reference of GISB standard 5.3.6 (which requires notice of capacity release recalls by 8 a.m. CCT) and the first sentence of GISB Standard 5.3.7 (which prohibits partial day recalls of capacity). The Commission is retaining the portion of Standard 5.3.7 that requires transportation service providers to ''support the function of reputting by releasing shippers.'' Reputting refers to the ability of a releasing shipper to include a condition in a release under which it can recall capacity when needed and, after the recall has ended, the capacity will revert (be reputted) to the replacement shipper, without the need for a new release.

protection from bumping as is provided to interruptible shippers under the Commission's regulations.

The Commission has placed great reliance on GISB's development of consensus standards, because the industry is the most knowledgeable about how it operates and it is the industry that must operate under these standards.[17] However, when GISB has been unable to reach consensus on issues concerning Commission policy, the Commission has resolved the policy dispute so that the standards development process can continue.[18]

A consensus of GISB's membership adopted its current standards for capacity release recalls when GISB's standards provided for only one nomination a day, at 11:30 a.m. CCT and a single non-standardized intra-day nomination . But the circumstances under which the recall standards were developed have markedly changed as the number of nomination opportunities have now expanded to four nomination opportunities. At the same time, it is apparent that the consensus supporting GISB's existing recall standards no longer exists, and GISB itself has recognized that it can no longer make progress in resolving this issue. In these circumstances, the Commission must resolve the policy question regarding partial day recalls.

In Order No. 636, the Commission established the capacity release mechanism to create competition with pipeline firm and interruptible transportation.[19] One of the fundamental tenets of the Commission's capacity release regulations is that releasing shippers have the opportunity to establish any recall conditions for their capacity. Section 284.8(b) expressly permits shippers to ''release their capacity in whole or in part, on a permanent or short-term basis, *without restriction on the terms and conditions of the release.*'' [20] In Order No. 636–A, the Commission recognized that ''a releasing shipper may include terms and conditions, such as recall rights, that will ensure it has adequate peak day capacity.'' [21] Thus, all recall conditions, including partial day recalls are consistent with the Commission's regulations. Moreover, in Order No. 637, the Commission sought to create greater scheduling parity between capacity release transactions and pipeline services by enabling capacity release transactions to take place on an intra-day basis at each of the four scheduling opportunities.[22] While this regulatory change enables shippers to release capacity at any nomination opportunity, the existing GISB recall standards do not permit releasing shippers to take full advantage of the intra-day nomination opportunities by recalling the capacity and renominating that capacity at each of the four scheduling opportunities. Allowing partial day recalls is, therefore, consistent with the overall regulatory changes promulgated in Order No. 637.

Permitting partial day recalls will add flexibility to shippers' rights and will better enable releasing shippers to offer released capacity that competes with the pipelines' interruptible service. The current GISB standards inhibit the ability of releasing shippers to release capacity because of their inability to quickly reclaim capacity when they require it for their own use. For example, under the current GISB standards, a releasing shipper that meets the 8 a.m. CCT notification time is unable to recall its capacity and submit a timely nomination for the next gas day at the 6 p.m. CCT Evening Nomination cycle. Moreover, a shipper that misses the 8 a.m. CCT recall notification time will miss four nomination opportunities and will be unable to have its volume flow until 48 hours after it submits the recall notification.[23]

As a result of such lengthy delays, releasing shippers may not be able to use their recall rights as effectively as possible to ensure that they can retain adequate peak day capacity for their own needs. The delay in rescheduling recalled capacity also can have an adverse competitive impact on the market by reducing the amount of capacity available for release. As AGA points out, if an LDC is a provider of last resort under a state unbundling initiative and is given notice that insufficient supply is being delivered to its city-gate, the LDC will need to recall released capacity for later in the same day or, at least, for the next day. If a partial day recall right is not provided, a releasing shipper with supplier-of-last-resort obligations will be reluctant to release capacity at all since it will not be able to recall that capacity when it is needed. In that event, shippers seeking capacity will have fewer alternatives to purchasing pipeline interruptible service.

Under the Commission's proposal, the releasing shipper would be able to recall and renominate its capacity in accordance with the current nomination and scheduling timelines. For example, the shipper could notify the pipeline of its recall and renomination at the 10 a.m. CCT Intra-Day 1 nomination cycle and submit a new nomination that will become effective at 5 p.m. CCT on the same day. In processing recalls and renominations, the pipeline would follow the applicable GISB nomination standard (standard 1.3.2) in terms of providing notice to the bumped replacement shipper.

The replacement shipper also will receive the same protection against loss of service as do interruptible shippers. In Order No. 587–G, the Commission determined that interruptible shippers could be bumped by firm intra-day nominations at the first three nomination opportunities, but could not be bumped at the third intra-day nomination opportunity (5 p.m. CCT nomination, with scheduled volumes by 9 p.m. CCT). The Commission provided this protection against bumping to provide stability in the nomination system, so that shippers can be confident by late afternoon that they will receive their scheduled flows.[24] This rationale seems to apply equally to replacement shippers so that they would not have to monitor the status of their nominations after 5 p.m. CCT.

In their comments on AGA's March 16, 2001 filing, the pipelines (INGAA, DEGT, El Paso Pipeline Companies, Enron) are not opposed to some revision of the GISB standards to liberalize the recall conditions. They maintain that allowing partial day recalls requires resolution of a number of issues such as notification of the replacement shipper that its capacity is being recalled, operational provisions to ensure that the recalled party does not continue to flow gas, billing issues regarding the use of

[17] Order No. 587, 61 FR at 39057 (Jul. 26, 1996), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,038, at 30,059 (resolving dispute over bumping of interruptible service by firm service).

[18] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,062, at 30–668–72 (Apr. 16, 1998).

[19] Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶30,950, at 30,556 (Aug. 3, 1992) (''competition between pipeline capacity and released capacity helps ensure that customers pay only the competitive price for the available capacity'').

[20] 18 CFR 284.8(b) (emphasis added).

[21] Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,950, at 30,558 (Aug. 3, 1992).

[22] 18 CFR 284.12(c)(1)(ii) (2001) (permitting shippers acquiring released capacity to submit a nomination at the earliest available nomination opportunity after the acquisition of capacity).

[23] A releasing shipper that misses the 8 a.m. CCT notification time cannot renominate that capacity until 11:30 a.m. CCT the next day, a nomination under which gas will not flow until 9 a.m. CCT the day after.

[24] Order No. 587–G, 63 FR at 20078, FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,062, at 30,671–72 (Apr. 16, 1998).

capacity for part of a day, and scheduling and nomination issues.

The Commission's proposal here is designed so as not to cause operational problems for pipelines. Some pipelines already have implemented partial day recall provisions on their systems.[25] Partial day recalls should not adversely affect scheduling procedures, since under the Commission's proposal, recalls will take place under the same nomination timeline currently used for nominating and scheduling firm and interruptible service, including bumping of interruptible service. Order No. 637 already requires pipelines to implement procedures to allocate capacity and potential imbalances and penalties associated with partial day releases, so the same procedures can be used for partial day recalls.[26]

In their comments on AGA's March 16, 2001 filing, NGSA and Dynegy oppose partial day recalls. They maintain that flowing or partial day recalls undermine system reliability, because they may shut in production or result in scheduling problems, overruns, penalties, or operational flow orders. They claim that if capacity is recalled, the replacement shippers (whose capacity is recalled) may be unable to obtain replacement capacity within the same day. They further contend that flowing day recalls may undermine competition. They assert that if flowing day recalls become the default method of doing business, such recall rights will result in lowering the value of released capacity. As a consequence, they maintain, shippers may be left with no alternative other than purchasing capacity from the pipeline.

As discussed above, the use of partial day recalls should create no additional scheduling problems since recalls will be scheduled according to the existing scheduling requirements. In effect, releasing shippers using partial day recalls are creating another form of interruptible transportation to compete with pipeline interruptible capacity and shippers purchasing recallable capacity should be subject to the same scheduling rules that apply to interruptible transportation. Partial day recalls will be no more likely to result in shut-in production than interruptible transactions that are subject to being bumped under the current standards.

As discussed earlier, permitting partial day recalls should not reduce competition, as Dynegy and NGSA assert, but should enhance competition as capacity that previously was not released because of concerns about recall rights becomes available as an alternative to pipeline interruptible service. Dynegy and NGSA appear to assume that if partial day recalls are not permitted, shippers will nonetheless release the same amount of capacity. However, as AGA points out, if LDCs or other shippers need to recall capacity to ensure their own peak day capacity, they may be reluctant to release capacity at all without some assurance of the ability to recall. Since Order No. 636, the Commission has proceeded under the assumption that the best way to improve access to capacity is to provide flexibility for releasing shippers to establish the terms and conditions of releases. While including partial day recalls may make some capacity releases less valuable to replacement shippers, as Dynegy and NGSA assert, the replacement shippers will know the terms of releases upfront and can determine whether to purchase that capacity or seek more reliable capacity, and can take the recall conditions into account in determining how much the capacity is worth.

III. Notice of Use of Voluntary Consensus Standards

Office of Management and Budget Circular A–119 (§ 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation containing a standard identifying whether a voluntary consensus standard or a government-unique standard is being proposed. In this NOPR, the Commission is proposing to issue its own regulation, because the existing GISB standard has not been revised to take into account changed circumstances, there is no longer consensus supporting this standard, and the existing standard fails to reflect Commission policy.

IV. Information Collection Statement

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The following burden estimate includes the costs of modifying, preparing and submitting tariff changes to reflect compliance with the Commission's proposed regulation to require pipelines to permit shippers to recall released capacity and renominate such recalled capacity at each nomination opportunity provided by the pipeline. Adoption of the proposed regulation will not place additional burdens on pipelines, because the regulation will require pipelines to use existing nomination procedures and protocols. The one-time tariff filing will not result in on-going costs.

Public Reporting Burden: (Estimated Annual Burden).

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total number of hours
FERC–545	93	1	38	3,534

Total Annual Hours for Collection (Reporting and Recordkeeping, (if appropriate)) = 3,534.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be the following:

[25] *See* Dominion Transmission, Inc., 95 FERC ¶ 61,316 (2001); National Fuel Gas Supply Corporation, 96 FERC ¶61,182 (2001).

[26] While the pipeline should propose reasonable default procedures for allocating capacity, imbalances, and penalties among releasing and replacement shippers, releasing shippers also may deviate from the default provision by including in their notices of release differing provisions for allocating capacity, imbalances, and penalties between them and the replacement shipper. *See* Texas Gas Transmission Corporation, 89 FERC ¶61,096, at 61,274 (1999) (releasing shippers can revise pipeline default provisions by including different allocation methodologies in their release notices).

	FERC–545
Annualized Capital/Startup Costs	$198,857
Annualized Costs (Operations & Maintenance)	0
Total Annualized Costs	198,857

Total Annualized costs for all respondents: $198,857.

OMB regulations [27] require OMB to approve certain information collection requirements imposed by agency rule. Respondents subject to the filing requirements of this proposed rule shall not be penalized for failing to respond to these collections of information unless the collection(s) of information display a valid OMB control No(s). These proposed reporting requirements if adopted, will be mandatory. The Commission is submitting notification of this proposed rule to OMB.

Title: FERC–545, Gas Pipeline Rates: Rate Change (Non-Formal).

Action: Proposed collection.

OMB Control No.: 1902–0154.

Respondents: Business or other for profit, (Interstate natural gas pipelines (Not applicable to small business.)).

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

Necessity of Information: This proposed rule, if implemented, would require pipelines to permit shippers to recall release capacity and renominate such recalled capacity at each nomination opportunity provided by the pipeline. This requirement is necessary to increase the efficiency of the pipeline grid.

The information collection requirements of this proposed rule will be reported directly to the industry users. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act to monitor activities of the natural gas industry to ensure its competitiveness and to assure the improved efficiency of the industry's operations. The Commission's Office of Markets, Tariffs and Rates will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for general industry oversight, and to supplement the documentation used during the Commission's audit process. Internal Review: The Commission has reviewed the requirements pertaining to business practices and electronic communication with natural gas interstate pipelines and made a determination that the proposed revisions are necessary to establish a more efficient and integrated pipeline grid. Requiring such information ensures both a common means of communication and common business practices which provide participants engaged in transactions with interstate pipelines with timely information and uniform business procedures across multiple pipelines. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, e-mail: *michael.miller@ferc.fed.us*].

Comments concerning the collection of information(s) and the associated burden estimate(s), should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–7318, fax: (202) 395–7285].

V. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[28] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[29] The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[30] Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA) [31] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The regulations proposed here impose requirements only on interstate pipelines, which are not small businesses, and, these requirements are, in fact, designed to benefit all customers, including small businesses. Accordingly, pursuant to § 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

VII. Comment Procedures

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments may be filed either in paper format or electronically. Those filing electronically do not need to make a paper filing.

For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426 and should refer to Docket No. RM96–1–019.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at *www.ferc.gov* and click on ''Make An E-Filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments. User assistance for electronic filing is available at 202–208–0258 or by e-mail to *efiling@ferc.fed.us.* Comments should not be submitted to the e-mail address.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through

[27] 5 CFR 1320.11.

[28] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[29] 18 CFR 380.4.

[30] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[31] 5 U.S.C. 601–612.

FERC's homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by e-mail to *rimsmaster@ferc.fed.us.*

VIII. Document Availability

In addition to publishing the full text of this document in the **Federal Register,** the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's homepage (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From FERC's homepage on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Documents & Filing link. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Documents & Filing link. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Web site during normal business hours from our Help line at (202) 208–2222 (e-mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (e-mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Web site are available. User assistance is also available.

List of Subjects in 18 CFR Part 284

Continental shelf, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

The Commission Orders

Docket Nos. RM98–10–008 and RM98–12–008 are terminated.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend part 284, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7532; 43 U.S.C. 1331–1356.

2. Section 284.12 is amended as follows:

a. Paragraph (b)(1)(v) is revised.

b. The heading of paragraph (c)(1)(ii) is revised, and the text of paragraph of (c)(1)(ii) is designated as (c)(1)(ii)(A).

c. Paragraph (c)(1)(ii)(B) is added.

The revised and added text reads as follows:

§ 284.12 Standards for pipeline business operations and communications.

* * * * *

(b) * * *

(1) * * *

(v) Capacity Release Related Standards (Version 1.4, August 31, 1999), with the exception of Standard 5.3.6 and the first sentence of Standard 5.3.7.

* * * * *

(c) * * *

(1) * * *

(ii) Capacity release scheduling.

(A) * * *

(B) A pipeline must permit shippers to recall released capacity and renominate such recalled capacity at each nomination opportunity provided by the pipeline according to the notice and bumping provisions applicable to interruptible shippers.

* * * * *

[FR Doc. 01–26328 Filed 10–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK37

Acceptable Evidence From Foreign Countries

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulation concerning evidence that is received from foreign countries. The intended effect of this amendment is to present the existing regulation in plain language.

DATES: Comments must be received on or before December 18, 2001.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AK37.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7228. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: VA proposes to rewrite 38 CFR 3.202 in plain language. The current regulation, located in subpart A of part 3, discusses when and how evidence from foreign countries must be authenticated. VA proposes to create new § 3.2420 to restate the current regulation. The proposed section would be located in Subpart D, Universal Adjudication Rules That Apply to Benefit Claims Governed by part 3 of this Title.

Paragraph (a) of proposed § 3.2420 states when authentication of the signature of officials of foreign countries is required and who may provide authentication. This is a restatement of the first sentence of paragraph (a) of current § 3.202.

Paragraph (b) of proposed § 3.2420 addresses who may authenticate signatures of foreign government officials when the authentication called for in paragraph (a) of this section is not available. This is a restatement of the last sentence of paragraph (a) and the text of paragraphs (a)(1) and (a)(2) of current § 3.202. We have eliminated the requirement that only the ''nearest'' United States Consular Officer may certify that the signature of an official of a foreign country has been investigated and found to be authentic. We believe that requirement is unnecessarily narrow and can be broadened without diminishing the integrity of VA's

programs. We have, therefore, amended this provision to allow a United States Consular Officer from another country to authenticate the signature.

Paragraph (c) of proposed § 3.2420 lists categories of evidence from foreign countries that do not require authentication of signature. This is a restatement of paragraph (b) of current § 3.202.

Paragraph (d) of proposed § 3.2420 explains that photocopies of original documents are acceptable to VA when they are genuine and free from alteration. This is a restatement of paragraph (c) of current § 3.202.

This rulemaking reflects VA's goal of making government more responsive, accessible, and comprehensible to the public. The Plain Language Regulations Project was developed as a long-term comprehensive project to reorganize and rewrite in plain language the adjudication regulations in part 3 of title 38, Code of Federal Regulations. This proposed rule is one of a series of proposed revisions to those regulations.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies assess anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This proposed rule will have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule does not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(B), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The catalog of Federal Domestic Assistance Program numbers for this proposal are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, 64.100, and 64.127. 1

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: October 11, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.202 [Removed]

2. § 3.202 is removed.

Subpart D—Universal Adjudication Rules that Apply to Benefit Claims Governed by Part 3 of This Title

3. The authority citation for part 3, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

4. § 3.2420 is added under the undesignated center heading ''EVIDENCE REQUIREMENTS'' to read as follows:

Evidence Requirements

§ 3.2420 Evidence from foreign countries.

(a) *Authentication of signature.* When the signature on an affidavit or other document signed under oath is authenticated by a government official of a foreign country, the signature of that official must in turn be authenticated by either:

(1) A United States Consular Officer in that jurisdiction, or

(2) The State Department (See § 3.108).

(b) *When there is no United States Consular Officer in that country.* If there is no United States Consular Officer in that country, the government official's signature may be authenticated by either:

(1) A consular agent of a friendly government whose signature and seal can be verified by the State Department, or

(2) A United States Consular Officer in another country who certifies that the signature was investigated and is authentic.

(c) *Authentication of signature not required.* Authentication of signature is not required for the following types of evidence:

(1) Documents approved by the Deputy Minister of Veterans Affairs, Department of Veterans Affairs, Ottawa, Canada,

(2) Documents that have the signature and seal of an officer authorized to administer oaths for general purposes,

(3) Documents signed before a VA employee authorized to administer oaths,

(4) Affidavits prepared in the Republic of the Philippines that are certified by a VA representative who is located there and has authority to administer oaths,

(5) Copies of public or church records from any foreign country used to establish birth, adoption, marriage, annulment, divorce, or death, if:

(i) The records have the signature and seal of the custodian of such records, and

(ii) There is no conflicting evidence on file, or

(6) Copies of public or church records from England, Scotland, Wales, or Northern Ireland used to establish birth, marriage, or death, when:

(i) The records have the signature or seal or stamp of the custodian of such records, and

(ii) There is no conflicting evidence on file.

(d) *Photocopies of documents acceptable.* Photocopies of original documents described in this section are acceptable to establish birth, death, marriage or relationship if VA is satisfied that they are genuine and free from alteration.

(Authority: 22 U.S.C. 4221; 38 U.S.C. 5712)

[FR Doc. 01–26382 Filed 10–18–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 055–OPP; FRL–7086–7]

Clean Air Act Proposed Full Approval of Operating Permit Program; Bay Area Air Quality Management District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is proposing to approve the operating permit program of the Bay Area Air Quality Management District (''Bay Area'' or ''District''). The Bay

Area operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdictions. EPA granted interim approval to the Bay Area operating permit program on June 23, 1995 but listed certain deficiencies in the program preventing full approval. Bay Area has revised its program to correct the deficiencies of the interim approval and this action proposes full approval of those revisions. The District has also made other revisions to its program since interim approval was granted and EPA is also proposing to approve most of those revisions in this action.

DATES: Comments on this proposed rule must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. Attention: David Wampler. You can inspect copies of the Bay Area's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

You may also see copies of the District's submitted operating permits program at the following locations:

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

The Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109–7799.

An electronic copy of Bay Area's operating permit program (Regulation 2, Rule 6) rules may be available via the Internet at *http://www.arb.ca.gov/drdb/ba/cur.htm.* However, the version of District Regulation 2, Rule 6 at the above internet address may be different from the version submitted to EPA for approval. Readers are cautioned to verify that the adoption date of Regulation 2, Rule 6 listed is the same as the rule submitted to EPA for approval. The official submittal is available only at the three addresses listed above.

FOR FURTHER INFORMATION CONTACT: David Wampler, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1256 or *wampler.david@epa.gov.*

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

I. What Is the Operating Permit Program?
II. What Is Being Addressed in this Document?
III. Impact of Today's Proposed Full Approval on the District's SIP-Approved Federally-Enforceable State Operating Permits Program
IV. Are There Other Issues with the Program?
V. What Are the Program Changes That EPA Is Proposing to Approve?
VI. What Is Involved in this Proposed Action?
VII. Discussion on the Revision to the Definition of Potential to Emit
VIII. Public Comments

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One goal of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification.

II. What Is Being Addressed in This Document?

Bay Area submitted, via the California Air Resources Board (CARB) its initial operating permits program to EPA on March 23, 1995. Because the Bay Area's operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval of the program, and conditioned full approval on the District revising its program to correct the deficiencies. The interim approval notice published on June 23, 1995 [60 FR 32606], described the program deficiencies and revisions that had to be made in order for the Bay Area's program to receive full approval. Since that time, the Bay Area has revised, and the California Air Resources Board, on behalf of the Bay Area, has submitted a revision to the Bay Area's operating permit program; this revision was submitted May 30, 2001. This **Federal Register** notice describes the changes that have been made to the Bay Area operating permit program as submitted on May 30, 2001, and the basis for EPA proposing full approval of the program.

III. Impact of Today's Proposed Full Approval on the District's SIP-Approved Federally-Enforceable State Operating Permits Program

Concurrent with our action on June 23, 1995 to grant final interim approval to the Bay Area's title V program, EPA granted, pursuant to 40 CFR part 52, final approval to the District's Federally-Enforceable State Operating Permit Program (FESOP) which is contained in portions of Regulation 2, Rule 6, and the District's Manual of Procedures, Volume II, Part 3 (MOP) thereby incorporating the FESOP into the California SIP. In the process of correcting cited deficiencies in its operating permit program, the District also revised language in Regulation 2, Rule 6 related to its FESOP rule. Even though this proposed rulemaking action discusses the District's FESOP program, today's proposed approval is for part 70 purposes only. EPA is not proposing to approve, for SIP purposes under 40 CFR part 52, those portions of Regulation 2 Rule 6 that involve the FESOP program. We can only take action on the Regulation 2, Rule 6 for SIP purposes only after the State submits it to us.

IV. Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits

programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

EPA received a comment letter from one organization on what they believe to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** notice published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

V. What Are the Program Changes That EPA Is Proposing To Approve?

As discussed in the June 23, 1995 [60 FR 32606] rulemaking, full approval of the Bay Area operating permit program was made contingent upon satisfaction of the following conditions:

Issue (1): Bay Area was required to provide a demonstration that each activity on its insignificant activities list is truly insignificant and is not likely to be subject to an applicable requirement. Alternatively, the District may establish emissions level cut-offs, in which activities emitting below the cut-offs would qualify as insignificant. In the latter case, the District must demonstrate that the cut-off emissions levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. In addition, Bay Area must revise Regulation 2, Rule 6 to state that activities needed to determine the applicability of, or impose applicable requirements on, the facility may not qualify as insignificant activities. (§§ 70.5(c) and 70.4(b))

Rule Change: Instead of demonstrating that each activity on the Bay Area's insignificant activity list is truly insignificant, the District corrected this deficiency by establishing significant source emissions cut-offs below which activities would be insignificant. To implement this correction, the District amended Regulation 2, Rule 6, section 239 to define ''significant source'' as a source that has a potential to emit of more than 2 tons per year of any regulated air pollutant, or more than 400 lbs per year of any hazardous air pollutant. In addition, the application content section of rule 2–6–405 requires operating permit applications to identify and describe each permitted source at the facility and each source or other activity that is exempt from the requirements to obtain a permit or excluded from District rules or regulations under Regulation 2, Rule 1. Furthermore, all part 70 permit applications are required to contain a list of all applicable requirements that apply to each source (Rule 2–6–405.5). Finally, Section 2.1.2 of the Manual of Procedures (''MOP'') requires applications to include other information necessary to implement and enforce other applicable requirements or determine the applicability of any such requirement on any source (whether permitted, exempt, or excluded) or any other activity.

Issue (2): Bay Area was required to include a term consistent with the Part 70 definition of ''applicable requirement,'' and use that term consistently in rules 2–6–409.1, 2–6–409.2 and throughout the regulation.

Rule Change: The District corrected this deficiency by revising the definition of ''applicable requirement'' at 2–6–202 to include a reference to the federal definition of ''applicable requirement'' as defined in 40 CFR 70.2. They have also added the term to 2–6–409.1 and 409.2.

Issue (3): Bay Area rule 2–6–409 was required to be revised to ensure that permit terms and conditions assure compliance with all applicable requirements (§ 70.7(a)(1)(iv)) and that permits contain emission limitations and standards (§ 70.6(a)(1)) and compliance certification requirements (§ 70.6(c)(1)) that assure compliance with all applicable requirements. Prior to being revised, the rule only required the District's operating permits to include requirements for testing, monitoring, reporting, and recordkeeping sufficient to assure compliance with the terms and conditions of the permit and the applicable requirements themselves.

Rule Changes: The District corrected this deficiency by revising the permit content section of Rule 2–6–409, to: (1) Require that all applicable requirements be included in the permit; and (2) add requirements to the compliance schedule section of permit content requirements (see 2–6–409.10.3). Furthermore, Rule 2–6–409.7 already required that the permit contain a statement that the owner or operator must comply with all permit conditions and limitations set forth in the permit. These additions will ensure that the permits contain all necessary requirements to assure compliance with applicable requirements.

Issue (4): Bay Area was required to show that certifications signed by the responsible official affirmatively state that they are based on truth, accuracy, and completeness, and that the certifications be based on information and belief formed after reasonable inquiry. Bay Area needed to revise Rules 2–6–405.9, 2–6–502, and the MOP (Sections 4.5 and 4.7), and any other certification provisions to ensure that both elements are explicitly required. (§ 70.5(d))

Rule Change: The District corrected this deficiency by revising several parts of the rule. First, the District added the following to the permit content section at 409.20: ''A certification requirement for all documents submitted pursuant to a major facility review permit. For applications, compliance certifications, and reports, the certification shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The certifications shall be signed by a responsible official for the facility.'' Second, the District revised the application content requirements at Rule 2–6–405.9 to state that applications must contain: ''A compliance certification by a responsible official of the facility that the application forms and all accompanying reports and other required compliance certifications are true, accurate, and complete based on information and belief formed after reasonable inquiry; and* * *.'' Third, the District revised the Monitoring and Records section at Rule 2–6–502 to state that: ''A responsible official shall certify that all such reports are true, accurate, and complete based on information and belief formed after reasonable inquiry.'' Finally, the MOP Sections 4.5 and 4.7, were revised to include these provisions and section 2–6–426 was added and requires compliance certifications consistent with Part 70. (See § 70.5(d)).

Issue (5): Bay Area was required to revise Regulation 2–6 to define and require notice to affected states. Alternatively, Bay Area could have made a commitment to: (1) Initiate rule revisions upon being notified by EPA of an application by an affected tribe for state status, and (2) provide affected state notice to tribes upon their filing for state status (i.e., prior to Bay Area's adopting affected state notice rules). (§§ 70.2 and 70.8(b)

Rule Change: The District corrected this deficiency by adding the term ''Affected State'' at Rule 2–6–242 to provide: ''A State whose air quality may be affected by a facility and that is contiguous to the State of California or a state that is within 50 miles of a permitted source within the District.'' In addition, the District added notification requirements for affected states consistent with 40 CFR 70.8(b)(1) to Rule 2–6–412. The District also revised Rule 2–6–412.6, consistent with 40 CFR 70.8(b)(2), to require written notification to EPA and affected states of any refusal to accept all recommendations from an affected state received during the public comment period for a draft permit.

Issue (6): The District was required to eliminate the phrase ''but not limited to'' from the definition of ''administrative permit amendment.'' (§ 70.7(d)(1)(iv))

Rule Change: The District corrected this deficiency by revising the definition at 2–6–201 to eliminate the problematic phrase.

Issue (7): The District was required to revise Rule 2–6–404.3 to limit the universe of significant permit modification applications due 12 months after commencing operations to only those applications for revisions pursuant to section 112(g) and title I, parts C and D of the Act that are not prohibited by an existing operating permit. Except in the above circumstances, a source is not allowed to operate the proposed change until the permitting authority has revised the source's operating permit. (§ 70.5(a)(1)(ii)).

Rule Change: Bay Area corrected this deficiency by revising Rule 2–6–404.3 to be consistent with federal regulations at 40 CFR Part 70. The definition now reads: ''An application for a significant permit revision shall be submitted by the applicant prior to commencing an operation associated with a significant permit revision. Where an existing federally enforceable major facility review permit condition would prohibit such change in operation, the responsible official must request preconstruction review and obtain a major facility review permit revision before commencing the change.''

Issue (8): Bay Area was required to eliminate the extended review period from the minor permit modification procedures at Rule 2–6–414.2 because it is inconsistent with Rules 2–6–410.2 and 40 CFR 70.7(e)(2)(iv).

Rule Change: The District corrected this deficiency by revising Rule 2–6–414.2 to read: ''The APCO shall act on the proposed minor revision within 15 days after the end of EPA's 45-day review period or within 90 days of receipt of the permit application whichever is later.'' This is now consistent with part 70 and 2–6–410.2.

Issue (9): The District was required to revise 2–6–412.1 to include notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1)) Rule Change: The District corrected this deficiency by adding the suggested language to Rule 2–6–412.1.

Issue (10): Bay Area was required to add a provision to the MOP (section 4.1) to state that only alternative emission control plans (AECPs) that have been approved into the SIP may be incorporated into the federally enforceable portion of the permit. (§ 70.6(a)(1)(iii))

Rule Change: The District has not revised the MOP as specified in our final interim approval. However, the District has corrected this deficiency by stating in a letter dated July 7, 2000 that there are no general AECP provisions in District rules. The only specific AECP provisions in the District rules are contained in the District coating rules, all of which have been SIP approved. Therefore, it is not possible for non-SIP-approved AECP provisions to be incorporated into the federally enforceable portion of an operating permit. Further, the language in the MOP is not inconsistent with federal regulations at Part 70, which is silent on how the District must treat AECPs. EPA understands that the District will identify only SIP-approved AECP provisions, as federally enforceable in operating permits.

Issue (11): Bay Area was required to add emissions trading provisions consistent with 40 CFR 70.6(a)(10), which requires that trading must be allowed where an applicable requirement provides for trading increases and decreases without a case-by-case approval.

Rule Change: The District corrected this deficiency by revising Rule 2–6–306—''Emissions Trading'' to be consistent with 40 CFR Part 70 as follows: ''The APCO shall allow emissions trading within a facility that has a major facility review permit in accordance with the procedures and restrictions set forth in Rule 2–6–418. This provision shall not apply to the phase II acid rain portion of any facility subject to this Rule.''

Issue (12): Bay Area was required to add a requirement to Regulation 2–6 that any document required by an operating permit must be certified by a responsible official. (§ 70.6(c)(1))

Rule Change: The District has added the required language at the end of Rule 2–6–409.20 which now states, ''[t]he certifications shall be signed by a responsible official for the facility.''

Issue (13): Bay Area was required to revise Rule 2–6–224 and Rule 2–6–409.10 to specify that all progress reports must include: (1) Dates when activities, milestones, or compliance required in the schedule of compliance were achieved; and (2) an explanation of why any dates in the schedule of compliance were not or will not be met and any preventive or corrective measures adopted. (§ 70.6(c)(4)(i and ii))

Rule Change: Bay Area responded and revised Section 2–6–409.10 to include a requirement that compliance plans must include deadlines for achieving each item in the plan, and a requirement that progress reports must be submitted every 6 months. Also, Section 409.10.3 now includes the statement that, ''[p]rogress reports shall contain the dates by which each item in the plan was achieved, and an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measure adopted.'' No changes have been made or are necessary to District Rule 2–6–224 because such changes would be redundant with the changes already made in 2–6–409.

Issue (14): Bay Area was required to revise Section 4.5 of the MOP and add a provision to Rule 2–6–409 to require that compliance certifications be submitted more frequently than annually if specified in an underlying applicable requirement. (§ 70.6(c)(4))

Rule Change: The District corrected this deficiency by adding new Section 2–6–409.17 that requires permits to include, ''a requirement for annual compliance certifications, unless compliance certifications are required more frequently than annually in an applicable requirement or by the APCO.''

Issue (15): At the time of the interim approval, Bay Area indicated in its program description that it intended to process new units that do not affect any federally enforceable permit condition as ''off-permit'' (see Section II, p. 21 and Staff Report, pp. 3–4). Bay Area was required to submit a letter revising its

program description to indicate that it will not process new units as ''off-permit'' or it could have revised its rule to include the part 70 off-permit provisions as defined in federal regulations at 40 CFR 70.4(b)(14) and 70.4(b)(15).

Rule Change: Bay Area corrected this deficiency by providing a letter to Jack Broadbent, Director, Region IX, Air Division, dated May 24, 2001, from the Bay Area APCO, Ellen Garvey that stated: ''The District has decided not to incorporate the 'off-permit' provisions into its current program submittal.'' Therefore, no off-permit changes will be allowed under the Bay Area program.

Issue (16): Bay Area was required to revise 2–6–222 defining ''regulated air pollutant'' to be consistent with the Federal definition (§ 70.2) and include pollutants subject to any requirement established under section 112 of the Act, including sections 112(g), (j), and (r).

Rule Change: The District corrected this deficiency by revising the definition of regulated air pollutant at Rule 2–6–222.5 to state, ''* * * any pollutant that is subject to any standard or requirement promulgated under Section 112 of the Clean Air Act, including sections 112(g), (j) and (r).''

Issue (17): One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Rule Change: In addition to the statutory exemption in the Health and Safety Code, Bay Area's regulations contained an exemption; however, the District has since revised its regulations to allow for permitting once state law provides for it. Specifically, Regulation 1, Section 110 and Regulation 2, Rule 1 were revised to allow for permitting pursuant to the California Health and Safety Code.

VI. What Is Involved in This Proposed Action?

The Bay Area has corrected the deficiencies cited in the interim approval on June 23, 1995 [60 FR 32606]. Thus, EPA is proposing full approval of the Bay Area operating permit program. In addition, Bay Area has made other changes to its operating permit program since we granted interim approval. These changes were not required by EPA to correct interim approval deficiencies cited in our June 23, 1995 **Federal Register**. EPA has reviewed the additional changes and proposes to approve most of the changes. Table 1a and 1b, respectively, list which rule and MOP subsections we are proposing to approve.

EPA is not acting on some changes that the District made to its rules; these changes were not required to correct interim approval issues and may not be approvable. See Table 2 below for a list of the rule (and MOP) sections of Bay Area's program on which EPA is not taking action. Please refer to the TSD for additional information on the basis for our decision to either approve or not act on those other changes. If a section is not listed in any of the tables below, it means that there has been no change to that section since interim approval.

TABLE 1A.—APPROVABLE RULE SUBSECTIONS THAT HAVE BEEN CHANGED SINCE INTERIM APPROVAL

Approvable rule section and name	Adoption date
2–6–101, Description	5/2/01
2–6–114, Exemption, Non-Road Engines	10/20/99
2–6–201, Administrative Permit Amendment	10/20/99
2–6–202, Applicable Requirements	5/2/01
2–6–204, Designated Facility	10/20/99
2–6–206, Facility	5/2/01
2–6–207, Federally Enforceable	5/2/01
2–6–211, Independent Power-Production Facility	5/2/01
2–6–212, Major Facility	10/20/99
2–6–215, Minor Permit Revision	10/20/99
2–6–217, Phase II Acid Rain Facility	5/2/01
2–6–218, Potential to Emit (see discussion below and in the TSD)	10/20/99
2–6–219, Preconstruction Permit or Review	10/20/99
2–6–222, Regulated Air Pollutant	5/2/01
2–6–226, Significant Permit Revision	10/20/99
2–6–229, Subject Solid Waste Incinerator Facility	10/2099
2–6–230, Synthetic Minor Facility	10/20/99
2–6–231, Synthetic Minor Operating Permit	10/20/99
2–6–232, Synthetic Minor Operating Permit Revision	10/20/99
2–6–233, Permit Shield	5/2/01
2–6–235, Actual Emissions	5/2/01
2–6–236, Modified Source or Facility	5/2/01
2–6–237, Potential to Emit Demonstration	10/20/99
2–6–238, Process Statement	10/20/99
2–6–239, Significant Source	10/20/99
2–6–240, State Implementation Plan	10/20/99
2–6–241, 12-month Period	10/20/99
2–6–242, Affected State	5/2/01
2–6–243, Final Action	5/2/01
2–6–244, CFR	5/2/01
2–6–303, Major Facility Review Requirement for Subject Solid Waste Incinerator Facilities	10/20/99
2–6–304 and 2–6–302: Major Facility Review Requirements for Designated Facilities: and Major Facility Review for Phase II Acid Rain Facilities:	10/20/99
2–6–306, Emissions Trading	5/2/01
2–6–307, Non-compliance, Major Facility Review	10/20/99
2–6–310, Synthetic Minor Operating Permit Requirement	10/20/99
2–6–311, Non-compliance, Synthetic Minor Facilities	5/2/01
2–6–312, Major Facility Review, Smaller Facilities	5/2/01
2–6–314, Revocation	5/2/01
2–6–401, Facilities Affected (Deleted 10/20/99)	10/20/99
2–6–403, Application for Major Facility Review Permit, Permit Renewal, or Permit Revision	2/1/95
2–6–404, Timely Application for Major Facility Review Permit	10/20/99
2–6–405, Complete Application for a Major Facility Review Permit	5/2/01
2–6–406, Application for Minor Permit Revision	10/20/99
2–6–407, Application Shield	10/20/99
2–6–408, Completeness Determination	10/20/99
2–6–409, Permit Content	5/2/01
2–6–410, Final Action for Initial Permit Issuance, Five-Year Renewal, Reopenings, and Revisions	10/20/99
2–6–411, Reports to EPA and Public Petitions for Major Facility Review Permits	5/2/01
2–6–412, Public Participation, Major Facility Review Permit Issuance	5/2/01
2–6–413, Administrative Permit Amendment Procedures	10/20/99
2–6–414.2 and 414.3, Minor Permit Revision Procedures. (Note: EPA is not acting on subsection 414.1. See table 2, below)	5/2/01
2–6–416, Term for Major Facility Review	5/2/01
2–6–418, Emissions Trading Procedures	5/2/01
2–6–420, Application for a Synthetic Minor Operating Permit	5/2/01
2–6–421, Timely Application for a Synthetic Minor Operating Permit	5/2/01
2–6–422, Complete Application for a Synthetic Minor Operating Permit	10/20/99
2–6–423, District Procedures for Synthetic Minor Operating Permits	5/2/01
2–6–424, Applicability	10/20/99
2–6–425, Facility List	10/20/99
2–6–426, Compliance Certification Procedures	5/2/01
2–6–502, Monitoring Reports, Major Facility Review Permit	5/2/01
2–6–503, Monitoring	5/2/01

TABLE 1B.—APPROVABLE MANUAL OF PROCEDURES (MOP) SUBSECTIONS THAT HAVE BEEN CHANGED SINCE INTERIM APPROVAL

Approvable Manual of Procedures Section Number and Title Adoption Date was May 2, 2001
1. Introduction (every paragraph except the second)
2. Applications:
2.1 Major Facility Review Permits
2.2 Synthetic Minor Operating Permits
2.3 Potential to Emit Demonstrations
3. Fees
4. Permit Content:
4.1 Applicable Requirements
4.2 Permit Duration
4.3 Terms and Conditions for Reasonably Anticipated Operating Scenarios
4.4 Terms and Conditions for Emissions Trading
4.5 Compliance
4.6 Monitoring Requirements
4.7 Recordkeeping and Reporting Requirements
4.8 Emergency Provisions
4.9 Acid Rain Provisions
4.10 Severability Clause
4.11 Standard Conditions to Implement EPA Title V Regulations and 40 CFR 70
4.12 Requirement to Pay Fees
4.13 Provisions Regarding the Federal Enforceability of Conditions
4.14 Inspection and Entry Requirements
4.15 Requirements for Compliance Certification
4.16 Permit Shield
5. Trade Secret and Availability of Information
6. Public Participation & EPA Review:
6.1 Major Facility Review Permits
6.2 Synthetic Minor Operating Permits
6.3 Appeals and Objections
7. District Permitting Procedures:
7.1 Major Facility Review Permits (all paragraphs except the three paragraphs that precede the last paragraph in the section)
7.2 Synthetic Minor Operating Permits
8. Title IV: Applicability

TABLE 2.—LIST OF RULE AND MOP SECTIONS THAT EPA IS NOT ACTING ON AS PART OF TODAY'S PROPOSED APPROVAL

Rule or MOP section and title	Adoption date
2–6–113, Exemption, Registered Portable Engines	10/20/99
2–6–234, Program Effective Date	10/20/99
2–6–313, Denial, Failure to Comply	5/2/01
2–6–414.1, Minor Permit Revision Procedures	5/2/01
MOP—Section 1—Introduction Only the second paragraph regarding the Program Effective Date	5/2/01
MOP—Section 7.1—Major Facility Review Permits. Only the three paragraphs that precede the last paragraph in section 7.1	5/2/01

VII. Discussion on the Revision to the Definition of Potential To Emit

Although not required to make the change for full approval, the District has revised its definition of ''Potential to Emit'' (2–6–218) (''PTE'') and the discussion of it in the MOP (page 3–2). The revised language no longer requires that permit limits be only ''federally enforceable.'' The definition now allows a permit limitation or the effect it would have on emissions, to be ''enforceable by the District or EPA.'' Although Bay Area's definition is different from the current definition in 40 CFR 70.2, litigation has occurred since we granted interim approval to Bay Area's rule that has affected EPA's consideration of this issue. In *Clean Air Implementation Project* v. *EPA,* No. 96–1224 (D.C. Cir. June 28, 1996), the court remanded and vacated the requirement for federal enforceability for potential to emit limits under part 70. Therefore, even though part 70 has not been revised it should be read to mean, ''federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.'' [1]

EPA proposes to approve this revision because the Bay Area rule is consistent with the current meaning of potential to emit as described above in the court's interpretation. EPA has issued several guidance memoranda that discuss how the court rulings affect the definition of potential to emit under CAA § 112, New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs, and title V.[2] In particular, the

[1] *See* also, *National Mining Association (NMA)* v. *EPA,* 59 f.3d 1351 (D.C. Cir. July 21, 1995) (Title III) and *Chemical Manufacturing Ass'n (CMA)* v. *EPA,* No. 89–1514 (D.C. Cir. Sept. 15, 1995) (Title I).

[2] *See,* e.g., January 22, 1996, memorandum entitled, ''Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement to EPA Regional Offices; January 31, 1996 paper to the Members of the Subcommittee on Permit, New Source Review and Toxics Integration from Steve Herman, OECA, and Mary Nichols, Assistant Administrator of Air and Radiation; and the August 27, 1996 Memorandum entitled, ''Extension of January 25, 1995 Potential to Emit Transition Policy'' from John Seitz, Director,

memoranda reiterate the Agency's earlier requirements for practicable enforceability for purposes of effectively limiting a source's potential to emit.[3] For example, practicable enforceability for a source-specific permit means that the permit's provisions must, at a minimum: (1) Be technically accurate and identify which portions of the source are subject to the limitation; (2) specify the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); (3) be independently enforceable and describe the method to determine compliance including appropriate monitoring, recordkeeping and reporting; (4) be permanent; and (5) include a legal obligation to comply with the limit.

EPA will rely on Bay Area implementing this new definition in a manner that is consistent with the court's decisions and EPA policies. In addition, EPA wants to be certain that absent federal and citizen's enforceability, Bay Area's enforcement program still provides sufficient incentive for sources to comply with permit limits. This proposal provides notice to Bay Area about our expectations for ensuring the permit limits they impose are enforceable as a practical matter (i.e., practicably enforceable) and that its enforcement program will still provide sufficient compliance incentive. In the future, if Bay Area does not implement the new definition consistent with our guidance, and/or has not established a sufficient compliance incentive absent Federal and citizen's enforceability, EPA could find that the District has failed to administer or enforce its program and may take action to notify the District of such a finding as authorized by § 70.10(b)(1).

VIII. Public Comments

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Bay Area submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 70

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

Dated: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26407 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

OAQPS and Robert Van Heuvelen, Director, Office of Regulatory Enforcement.

[3] *See,* e.g., June 13, 1989 Memorandum entitled, ''Guidance on Limiting Potential to Emit in New Source Permitting, from Terrell F. Hunt, Associate Enforcement Counsel, OECA, and John Seitz, Director, OAQPS, to EPA Regional Offices.'' This guidance is still the most comprehensive statement from EPA on this subject. Further guidance was provided on January 25, 1995 in a memorandum entitled ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, ORE to Regional Air Directors. Also please refer to the EPA Region 7 database at *http://www.epa.gov/region07/programs/artd/air/policy/policy.htm* for more information.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 049–OPP; FRL–7087–5]

Clean Air Act Proposed Full Approval of Operating Permit Program; San Diego County Air Pollution Control District, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the operating permit program of the San Diego County Air Pollution Control District (''San Diego'' or ''District''). The San Diego operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the San Diego operating permit program on December 7, 1995 but listed conditions that San Diego's program would be required to meet for full approval. San Diego has revised its program to satisfy the conditions of the interim approval. Thus, this action proposes full approval of the San Diego operating permit program as a result of those revisions.

DATES: Comments on the program full approval discussed in this proposed action must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105. You can inspect copies of the San Diego's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105.

You may also see copies of the submitted Title V program at the following locations:

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

The San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California 92123–1096.

An electronic copy of SDCAPCD's title V rule, Regulation XIV may be available via the Internet at *http://www.arb.ca.gov/drdb/sd/cur.htm.* However, the version of District Regulation XIV at the above internet address may be different from the version submitted to EPA for approval. Readers are cautioned to verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval. The official submittal is available only at the three addresses listed above.

FOR FURTHER INFORMATION CONTACT: David Wampler, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1256.

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

I. What Is the Operating Permit Program?
II. What Is Being Addressed in this Document?
III. Are There Other Issues with the Program?
IV. What Are the Program Changes That EPA Is Proposing to Approve?
V. What Is Involved in this Proposed Action?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain Federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

II. What Is 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 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the District revising its program to correct any deficiencies. Because the San Diego operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to its program in a rulemaking published on December 7, 1995 (60 FR 62753). The interim approval notice described the conditions that had to be met in order for the San Diego program to receive full approval. Since that time, the California Air Resources Board, on behalf of the San Diego has submitted one revision to the San Diego's interimly approved operating permit program; this revision is dated June 4, 2001. This **Federal Register** notice describes the changes that have been made to the San Diego operating permit program since interim approval was granted.

III. Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

EPA received a comment letter from one organization on what they believe to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by

December 1, 2001. As stated in the **Federal Register** notice published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

IV. What Are the Program Changes That EPA Is Proposing To Approve?

As explained in the December 7, 1995 [60 FR 62753] rulemaking, full approval of the San Diego operating permit program required satisfaction of the following conditions:

Issue (1): One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other Federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Rule or Program Change: San Diego amended its program to require agricultural operations to obtain Title V operating permits when state law is revised.

Issue (2): San Diego was required to revise Rule 1401(c)(43) definition of ''Significant Permit Modification,'' to be consistent with Part 70 which requires that any significant change in monitoring permit terms or conditions be processed as a significant permit modification.

Rule Change: San Diego met this condition by amending the definition of ''significant permit modification'' at Regulation XIV, Rule 1401(c)(44) to include a ''significant change in existing monitoring permit terms or conditions or relaxation to monitoring, recordkeeping, or reporting requirements; or * * *'' See 40 CFR 70.7(e)(4).

Issue (3): San Diego was required to define affected state or, because of its cooperative agreement with Native American Tribes, EPA would accept a commitment from San Diego to: (1) Initiate rule revisions upon notification from EPA that an affected tribe has applied for state status; and (2) provide affected state notice to tribes upon a tribe's filing for state status, that is, prior to the District's adoption of affected state notice rules. See 40 CFR 70.2 and 70.8(b)(1).

Rule Change: San Diego met this requirement by revising its rule to define affected state at Rule 1401(c)(5) to mean: ''any state that: (i) Is contiguous with California and whose air quality may be affected by a permit action, or (ii) is within 50 miles of the source for which a permit action is being proposed. For purposes of this rule affected state includes any federally recognized Eligible Indian Tribe.'' In addition, Rule 1415 was amended to require affected states be notified by the APCO at least 45 days prior to issuance of a five year initial permit to operate, a revised permit resulting from an application for significant modification or renewal of such a permit.

Issue (4): San Diego was required to revise Rule 1410(h)(7), paragraph 2 to require permit reopening procedures for any inactive status permit that is modified to reflect new applicable requirements upon being converted to

active status if there are 3 years or more remaining on the term of its 5-year permit. See 40 CFR 70.7(f)(1)(i).

Rule Change: San Diego met this condition by deleting, in its entirety, subsection (7) of rule 1410. The rule, therefore, no longer allows inactive status permits to be reactivated.

Issue (5): San Diego was required to remove any activities from the District's list of insignificant activities that are subject to a unit-specific applicable requirement and adjust/add size cut-offs to ensure that the listed activities are truly insignificant. See 40 CFR 70.4(b)(2) and 70.5(c).

Rule Change: San Diego met this condition by revising its list of insignificant activities to remove activities (or impose size limits on units) that were subject to any unit-specific applicable requirements (e.g., refrigeration units are now limited to a charge of less than 50 pounds of a Class I or II ozone depleting compound). San Diego also included a justification as to why certain emission units are included in the insignificant activities list. San Diego's justification relied on district emission factors and expected operations from the subject emission units and/or included the analysis that was conducted in 1999 by a workgroup, including staff from the ARB, EPA Region 9 and CAPCOA, who developed a model list of insignificant activities. San Diego also removed language in the introduction to Appendix A to no longer allow insignificant activities to be exempt from the permit requirements of Regulation XIV.

Issue (6): San Diego was required to remove the reference to Rules 1410 (j) and (k) in Rule 1410(i).[1] This reference to minor and significant permit modifications in the provisions for administrative permit amendments could have be read to be inconsistent with the definition of ''significant permit modification'' (Rule 1401(c)(43)), which correctly defaulted unspecified changes to the significant permit modification process. In addition, EPA required the District to remove the word ''include'' from the phrase, ''These shall include the following'' in the administrative permit amendment section (Rule 1410(i)). See 40 CFR 70.7(d).

Rule Change: San Diego met this condition by revising Rule 1410 (i) to remove the reference to subsections (j) and (k) and to remove the phrase that included the word, ''include.''

Issue (7): The District must revise either the definition of ''federally mandated new source review'' or the definition of ''federally enforceable requirement'' to clearly include minor new source review as an applicable requirement under title V.

Rule Change: San Diego met this requirement by revising Rule 1401(c)(20) to now define Federally Mandated New Source Review (NSR) as ''* * * new source review that would be required by the approved State Implementation Plan (SIP).''

V. What Is Involved in This Proposed Action?

The EPA proposes full approval of the operating permits program submitted by San Diego County based on the revisions submitted on June 4, 2001 which satisfactorily address the program deficiencies identified in EPA's December 7,1995 Interim Approval Rulemaking. See 60 FR 62794. In addition, the District has revised and submitted as part of its revised program, changes to two forms:

- Form 1401–J1—Monitoring Report and Compliance Certification; and
- Form 1401–J2—Deviation Report.

EPA is not acting on these forms as part of this action because they were not required to revise these forms for full approval and the forms may not be consistent with the reporting requirements at 70.6(c)(5) [compliance certifications] and 70.6 (a)(3)(iii) [semi-annual monitoring reports and deviation reports].

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the San Diego submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these

[1] A typographical error exists in our December 7, 1995 FR in which we referred to Rule 1410 as Rule 1401.

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 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26408 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 050–OPP; FRL–7087–6]

Clean Air Act Full Approval of Operating Permit Program; San Joaquin Valley Unified Air Pollution Control District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve the operating permit program for the San Joaquin Valley Unified Air Pollution Control District (''San Joaquin'' or ''District''). The District's operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the District's operating permit program on April 24, 1996. This action proposes approval of revisions to the District's permit program that were submitted to satisfy the conditions for full approval.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the District's submittal, and other supporting documentation relevant to this action, during normal business hours at the EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

You may also see copies of the submitted Title V program at the following locations:

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

The San Joaquin Valley Pollution Control District, 1990 E. Gettysburg Avenue, Fresno, CA 93726–0244

FOR FURTHER INFORMATION CONTACT: Ed Pike, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1211 or pike.ed@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information on today's rulemaking:

What is the operating permit program?
What rules were submitted for full approval?
How do the program changes qualify for full approval?
Are there other issues with the program?

What Is the Operating Permit Program?

The CAA Amendments of 1990 require all State and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include (but are not limited to) those that have the potential to emit: (1) 50 tons per year or more of volatile organic compounds or nitrogen oxides (NO_X) in a serious non-attainment; (2) 70 tons per year of particulate matter (PM_{10}) in a PM_{10} non-attainment area; (3) 10 tons per year of any single Hazardous Air Pollutant (as defined under section 112 of the CAA); or (4) 25 tons per year or more of a combination of Hazardous Air Pollutants (HAPs).

What Rules Were Submitted for Full Approval?

Where an operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the State or local permitting agency revising its program to correct the deficiencies. Because the San Joaquin operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to each program in a rulemaking published on April 24, 1996 [61 FR 18083]. The interim approval notice described the conditions that had to be met in order for the San Joaquin program to receive full approval.

In response, San Joaquin adopted revisions to three permitting regulations on June 21, 2001. The first is District Rule 2520, Federally Mandated Operating Permits, which is the District's part 70 permitting rule. The District also made revisions to the elements of District Rule 2201, New and Modified Source Review, that contain part 70 requirements allowing a source to obtain a modification under Rule 2201 that also satisfies part 70 requirements. District Rule 2020, Exemptions, was also revised. The California Air Resources Board, on behalf of the District submitted these revised regulations and other program revisions on July 3, 2001. This **Federal Register** notice describes the changes that have been made to the San Joaquin operating permit program since interim approval was granted and how the revised program meets the conditions for full approval.

How Do the Program Changes Qualify for Full Approval?

EPA's April 24, 1996 rulemaking required that San Joaquin make a number of changes to the program to qualify for full approval. EPA is proposing to fully approve the revised program submitted to EPA on July 3, 2001. This revised program contains the following changes to address the interim approval requirements (for more information, please see the Technical Support Document):

Issue #1

In order for San Joaquin's program to receive full approval (and to avoid a disapproval upon the expiration of this interim approval), the California Legislature must revise the Health and Safety Code to eliminate the exemption of agricultural production sources from the requirement to obtain a permit. (See major source definition in 40 CFR 70.2 and applicability under 40 CFR 70.3)

Rule or Program Change

One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Issue #2

Revise the applicability language in Rule 2520 section 2.2 and the definitions of Major Air Toxics Source (Rule 2520 section 3.18) and Major Source (Rule 2520 section 3.19) to be consistent with the Act and Part 70 to cover sources that emit at major source thresholds. (See 40 CFR 70.2, definition of ''Major Source'')

Rule or Program Change: The District has amended the applicability language in Rule 2520 section 2.2, Rule 2520 section 3.18, and Rule 2520 section 3.19 to include sources with actual emissions at or above the major source thresholds, rather than just sources with the potential to emit at the major source thresholds.

Issue #3

Limit the exemption for non-major sources in Rule 2520 section 4.1 so that it does not exempt non-major sources that EPA determines, upon promulgation of a section 111 or 112 standard, must obtain Title V permits. (See 40 CFR 70.3)

Rule or Program Change: The District has amended the language in Rule 2520 section 4.1 to limit the exemption for non-major sources in Rule 2520 section 4.1 so that it does not exempt non-major sources that EPA determines, upon promulgation of a section 111 or 112 standard, must obtain Title V permits. Any source that falls into one or more of the source categories listed under section 4.1 cannot be exempted from the requirements to obtain a title V permit, even if it is not a major source.

Issue #4

Revise Rule 2520 section 7.1.3.2 to eliminate the requirement that fugitive emission estimates need only be submitted in the application if the source is in a source category identified in the major source definition in 40 CFR 70.2. (See 40 CFR 70.5(c))

Rule or Program Change: The District amended the language in Rule 2520 Section 7.1.3.2 to eliminate the requirement that fugitive emissions estimates need only be submitted in the application if the source is in a source category identified in the major source definition in 40 CFR 70.2. The District

also added fugitive emissions to the list of emissions-related information that must be submitted with permit applications in section 7.1.3.1.

Issue #5

Revise Rule 2520 to provide that unless the District requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. (See 40 CFR 70.5(a)(2) and 70.7(a)(4))

Rule or Program Change: The District revised section 11.6.1 of District Rule 2520 to assure that ''Unless the APCO requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete.''

Issue #6

Revise Rule 2520 sections 11.1.4.2 and 11.3.1.1 and Rule 2201 5.3.1.1.1 to include notice ''by any other means if necessary to assure adequate notice to the affected public.'' (See 40 CFR 70.7(h)(1))

Rule or Program Change: The District revised the language in sections 11.1.4.2 and 11.3.1.1 of Rule 2520 and section 5.3.1.1.1 of Rule 2201 (which has been administratively renumbered as section 5.9.1.1 of Rule 2201) to include notice by any other means if necessary to assure adequate notice to the affected public.

Issue #7

Revise Rule 2520's permit issuance procedures to provide for notifying EPA and affected states in writing of any refusal to accept all recommendations for the proposed permit submitted by an affected state during the public/affected state review period. (See 40 CFR 70.8(b)(2))

Rule or Program Change: Language has been added to section 11.3.1.3 of Rule 2520 requiring the District to notify EPA and affected states in writing of any refusal to accept all recommendations for the proposed permit that an affected state submitted during the public/affected state review period.

Issue #8

Either delete section 11.7.5 in Rule 2520 and section 5.3.1.8.5 in Rule 2201, which purport to limit the grounds upon which EPA may object to a permit to compliance with applicable requirements, or revise them to be fully consistent with 40 CFR 70.8 (c).

Rule or Program Change: The District resolved this issue by revising section 11.7.5 of Rule 2520 and section 5.3.1.8.5 (which has been administratively renumbered as section 5.9.1.9.4) of Rule 2201 to be consistent with 40 CFR part 70 as follows: ''EPA objection shall be limited to compliance with applicable requirements and the requirements of 40 CFR part 70.''

Issue #9

Revise Rule 2520 section 2.4 to clarify that the phrase in section 2.4 that ''only the affected emissions units within the stationary source shall be subject to part 70 permitting requirements'' applies only to stationary sources that are also area sources. (See 40 CFR 70.3(c))

Rule or Program Change: Section 2.4 was revised to read ''For stationary sources, which are subject to Rule 2520 solely as a result of Section 2.4, only the emissions units within the stationary source that are subject to the section 111 or 112 standard or requirement shall be subject to the Part 70 permitting requirements.''

Issue #10

Revise Rule 2520 section 8.1 to provide that each model general permit and model general permit template will be subject to public, affected state, and EPA review consistent with initial issuance at least once every 5 years. (See 40 CFR 70.4(b)(3)(iii) and 70.7(c)(1))

Rule or Program Change: Section 8.1 of Rule 2520 was revised to provide that each model general permit and model general permit template will be subject to public, affected state, and EPA review consistent with initial issuance at least once every 5 years.

Issue #11:

Revise Rule 2520 Section 8.1 to provide that any permit for a solid waste incinerator unit that has a permit term of more than 5 years shall be subject to review, including public notice and comment, at least once every 5 years. (See 40 CFR 70.4(b)(3)(iii) and (iv) and 70.7(c))

Rule or Program Change: Section 8.1 of Rule 2520 was revised to provide that any permit for a solid waste incinerator unit that has a permit term of more than 5 years shall be subject to review, including public notice and comment, at least once every 5 years.

Issue #12

Revise Rule 2520 section 13.2.3 to state that the permit shield will only apply to requirements addressed in the permit. Section 504(f) of the Act and 40 CFR § 70.6(f) are both clear that the permit shield only extends to requirements that are addressed in the permit. EPA will not consider a source to be shielded for failure to comply with an applicable requirement if that applicable requirement is addressed only in the written reviews (such as a permit evaluation) supporting permit issuance and not in the permit.

Rule or Program Change: Rule 2520 section 13.2.3 was revised to read, ''The permit shield applies only to requirements that are either identified and included by the District in the permit, or are requirements that the District, in acting on the application, determines in writing are not applicable to the source. In cases where the District determines that a requirement is not applicable to the source and provides a permit shield, the permit shall include the determination or a concise summary of the determination.''

Issue #13

Revise Rule 2520 section 9.12 to require that the permit contain terms and conditions for the trading of emissions increases and decreases to the extent that any applicable requirement provides for such trading without case by case approval. The District may limit transfers of emission reduction credits in accordance with District Rules 2201 and 2301. (See 40 CFR 70.6(a)(10))

Rule or Program Change: The language in section 9.11 (the corresponding section after a numbering correction) of Rule 2520 was revised to require that the permit contain terms and conditions for the trading of emissions increases and decreases to the extent that any applicable requirement provides for such trading without case by case approval.

Issue #14

Revise Rule 2520 section 9.0 (permit content) to include the 40 CFR § 70.6(c)(3) requirement for schedules of compliance for applicable requirements for which the source is in compliance or that will become effective during the permit term.

Rule or Program Change: A new section (Section 9.14) was added to Rule 2520. This section includes the 40 CFR § 70.6(c)(3) requirement for schedules of compliance for applicable requirements for which the source is in compliance or that will become effective during the permit term.

Issue #15

Revise Rule 2520 to treat changes made under the Prevention of Significant Deterioration (PSD) provisions of the Act in the same manner as ''Title I modifications'' as that term is defined in Rule 2520 and Rule 2201. (See 40 CFR 70.7 and 70.4(b)(12))

Rule or Program Change: Sections 3.20.4.1, 3.20.5, 6.4.1.3, and 6.4.4.5 of

Rule 2520 were revised to treat changes made under the Prevention of Significant Deterioration (PSD) provisions of the Act in the same manner as ''Title I modifications'' as that term is defined in Rule 2520 and Rule 2201.

Issue #16

Revise Rule 2520 to state that notwithstanding permit shield provisions, if a source that is operating under a general permit or general permit template is later determined not to qualify for the terms and conditions of that general permit or template, then the source is subject to enforcement action for operation without a part 70 permit. (See 40 CFR 70.6(d))

Rule or Program Change: Section 13.2.4 was added to Rule 2520 to state that ''Notwithstanding these permit shield provisions, if a source that is operating under a general permit or general permit template is later determined not to qualify for the terms and conditions of that general permit or template, then the source is subject to enforcement action for operation without a part 70 permit.''

Summary: As noted earlier, EPA is proposing to fully approve San Joaquin's revised operating permit program based on the revisions submitted to EPA on July 3, 2001.

Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

EPA received a comment letter from one person on what they believe to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** notice published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the District's submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **note**) do not apply.

List of Subjects in 40 CFR Part 70

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

Dated: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26409 Filed 10–18–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA048–OPP; FRL–7087–7]

Clean Air Act Proposed Full Approval of Operating Permit Program; Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the operating permit program of the Santa Barbara Air Pollution Control District (''Santa Barbara'' or ''District''). The District operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdictions. EPA granted interim approval to the Santa Barbara operating permit program on November 1, 1995 but listed certain deficiencies in the program preventing full approval. Santa Barbara has revised its program to correct the deficiencies of the interim approval and this action proposes full approval of those revisions. The District has also made other revisions to its program since interim approval was granted and EPA is also proposing to approve those revisions in this action.

DATES: Written comments must be received by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105. You can inspect copies of the District's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the submitted Title V program at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814. Santa Barbara County Air Pollution Control District: 26 Castilian Drive B–23, Goleta, CA 93117.

You may also review the District rules by retrieving them from the California Air Resources Board (ARB) website. If you review rules on the website be sure the adoption date on the electronic version matches that of the rule for which EPA proposes approval. The location of the District rules is at *http://arbis.arb.ca.gov/drdb/ven/cur.htm.*

FOR FURTHER INFORMATION CONTACT: Robert Baker, EPA Region IX, at (415) 744–1258 (*Baker.Robert@epa.gov*).

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?
Are there other issues with the program?
What are the program changes that EPA is proposing to approve?
What is involved in this proposed action?

What Is the Operating Permit Program?

The Clean Air Act Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the 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 the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year or more of any single hazardous air pollutant (HAP) 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 non-attainment classification. For example, in ozone non-attainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

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 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the District's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the District's program on November 1, 1995. This **Federal Register** notice describes the changes that the District's has made to its operating permit program (Rules 1301, 1303, 1304 and 370) since interim approval was granted.

Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

EPA received a comment letter from one organization on what they believe to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** notice published on

December 11, 2000 (65 FR 77376), EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commentor in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

What Are the Program Changes That EPA Is Proposing To Approve?

As discussed above, EPA granted final interim approval on November 1, 1995 (60 FR 55460) to the District's title V program. As stipulated in that rulemaking, full approval of the District operating permit program was made contingent upon satisfaction of certain conditions. In response to EPA's interim approval action, the District revised its operating permit program (Rules 1301, 1303, 1304 and 370) to remove the deficiencies identified by EPA. The District made its revised rule available to public review and comments. It also held a workshop on September 27, 2000. On January 18, 2001, the District adopted the revisions. The revised program was submitted to EPA on April 5, 2001. We have included below a discussion of each of the interim approval deficiencies, the conditions for correction, and a summary of how the District has corrected the deficiency. The Technical Support Document (TSD) for this action includes the District's submittal and more details of the revisions made. In the discussion here, each of the EPA cited deficiencies identified in the July 10, 1995 **Federal Register** notice (see 59 FR 60104) that proposed the interim approval is listed followed by a brief description of the District's revisions to its operating permit program to remove these deficiencies.

Changes Required for Full Program Approval

Issue a. Variances: Rule 1305.G(1) had to be revised to read ''The terms and conditions of any variance or abatement order that would prescribe a compliance schedule shall be incorporated into the permit as a compliance schedule, to the extent required by Part 70 rules.''

District's Response to Issue a. After reviewing District Rule 1305.G(1) EPA has determined that the rule already incorporates all of the above language and that no further revision of the rule is required.

Issue b. Permit Content: Rule 1303.D.1.f., permit content requirements, had to be revised to provide adequate specificity with regard to the applicable recordkeeping requirements. See § 70.6(a)(3)(ii)(A) and (B).

District's response to Issue b. The District incorporated all of the above requirements in Rule 1303.D.1.f.

Issue c. Insignificant Activities: The District had to provide a demonstration that activities that are exempt from permitting under Rule XIII, (pursuant to Rule 202, the District's permit exemption list) are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, Rule XIII may restrict the exemptions to activities that are not likely to be subject to an applicable requirement and emit less than District-established emission levels. The District would have to establish separate emission levels for HAP and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. See § 70.4(b)(2).

Additionally, Rule XIII had to be revised to require that insignificant activities that are exempted because of size or production rate be listed in the permit application. See § 70.5(c). See 1302.D.1.f., Definition of Insignificant Activities.

Additionally, Rule 1301 definition of ''Insignificant Activities'' had to be revised deleting the last sentence, which contradicts the requirement that applications may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required. See § 70.5(c).

District's response to Issue c. The District deleted the current definition of ''Insignificant Activities'' and added: ''Insignificant emission levels'' means the emission levels from any emission unit, that for regulated air pollutants excluding Hazardous Air Pollutants, are less than 2 tons per year potential to emit, and less than 0.5 tons per year potential to emit of any Hazardous Air Pollutants regulated under Section 112(g) of the Clean Air Act.

The District also deleted the last sentence in the definition of ''Insignificant Activities'' and added: ''Insignificant Activities mean activities whose emissions do not exceed insignificant emission levels''. Activities exempted because of size, emission levels, or production rate shall be listed in the permit application.

Issue d. Definition of Administrative Permit Amendment: The District had to revise Rule 1301, definition of ''Administrative Permit Amendment'' Part 6. Santa Barbara had to define by rule what ''other changes'' will be determined to be administrative permit amendments. In order for ''other changes'' to qualify as an administrative permit amendment, the specific changes must be approved by the Administrator as part of the part 70 program. See § 70.7(d)(1)(iv).

District's response to Issue d. The District deleted part 6 of the definition of ''Administrative Permit Amendment'' which would have allowed the Control Officer and the USEPA to incorporate ''other changes'' into a permit as an Administrative Permit Amendment.

Issue e. Operational Flexibility Notification: Rule 1304.E.2 and E.3 had to be revised to incorporate a requirement that sources notify EPA of changes made under the operational flexibility provisions. See § 70.4(b)(12).

District's response to Issue e. The District added to the second paragraph of 1303.E.2: ''The owner or operator shall also provide written notification to USEPA of emission trades made, a minimum of seven days in advance.''

The District also added to the first paragraph of 1303.E.3: ''The owner or operator shall also provide written notification to USEPA, a minimum of seven days in advance, of express permit conditions contravened.''

Issue f. Public Notification Requirement: The District had to revise Rule 1304.D.6 to include notice ''by other means if necessary to assure adequate notice to the affected public.'' See § 70.7(h)(1).

District's response to Issue f. The District added to the first paragraph of 1304.D.6: ''Notice shall be provided by other means if necessary to assure adequate notice to the affected public.''

Issue g. Significant Changes to Monitoring Requirements: Rule 1301, definition of ''Minor Permit Modification'' part (4) had to be revised to read ''The modification does not involve any relaxation of any existing reporting or recordkeeping requirements in the permit, or any significant changes to existing monitoring requirements in the permit.'' See §§ 70.7(e)(2)(i)(2) and 70.7(e)(4)(i).

District's response to Issue g. The District revised the definition of ''Minor Permit Modification'' part 4 of 1301.C to add the exact language cited above.

Issue h. Form of Applicable Requirement: The District rule did not require the identification of any

difference in form from the applicable requirement upon which the term or condition is based. Regulation XIII had to be revised to include this requirement. This requirement is included in the Standard Permit Format. See § 70.6(a)(1)(i).

District's response to Issue h. The District added text to Rule 1303.D.1. to require that each Part 70 permit include elements that describe the origin of and authority for each permit term and condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

Issue i. Applicable Requirement Trading: The District had to add emissions trading provisions to Rule 1301 consistent with § 70.6(a)(10), which require that trading must be allowed where an applicable requirement provides for trading increases and decreases without a case-by-case approval.

District's response to Issue i. The District revised Rule 1301.D.1.s. and added all of the required provisions consistent with § 70.6(a)(10).

Issue j. Prompt Reporting of Deviations: Santa Barbara had not defined ''prompt'' in their program with respect to reporting of all deviations. Part 70 of the operating permits regulations requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Santa Barbara's requirement for reporting of deviations was limited to deviations due to emergency upset conditions. Under part 70, deviations include, but are not limited to, upset conditions. In our final interim approval, we provided Santa Barbara three options to correct this deficiency. Santa Barbara had to revise rule 1303.D.1.g to be consistent with the more inclusive part 70 requirement.

District's response to issue j. The District revised Rules 1303.D.1.g. and h. to require the reporting of all permit deviations within 7 days after discovery of the violation.

Issue k. Exemptions: The District had to delete Rule 1301.B.4. Section 70.3(b) requires that major sources, affected sources (acid rain sources), and solid waste incinerators regulated pursuant to section 129(e) of the CAA may not be exempted from the program. Although Section 129(g)(1)(3) of the CAA exempts solid waste incineration units subject to Section 3005 of the Solid Waste Disposal Act, part 70 does not exempt these units. Any solid waste incineration unit that meets the definition of ''major source'' under part 70 would be subject to the requirement to obtain a part 70 permit regardless of the unit's applicability under Section 129.

District's response to issue k. The District deleted Rule 1301.B.4. which exempted solid waste incineration units from the operating permit program.

Issue l. Recordkeeping for off-permit changes: Santa Barbara's rule did not require that the permittee keep records describing off-permit changes and the emissions resulting from these changes. Santa Barbara's rule had to be revised to be consistent with the requirements of § 70.4(b)(14)(iv).

District's response to issue l. Under the District's rules, a source is required to obtain an Authority to Construct or minor modification for all changes at a Part 70 source. The application for the Authority to Construct describes the changes and the emissions resulting from the change.

Issue m. Definition of Title I Modifications and Significant Part 70 Permit Modifications: Rule 1301 defined ''modification'' to include all modifications under 40 CFR part 60. However, the definitions of ''title I (or major) modification'' and ''significant part 70 permit modification'' did not clearly define all modifications under part 60 as title I modifications and did not clearly ensure that they will be treated as significant permit modifications. In order to receive full approval, Santa Barbara had to clarify the definitions of ''title I (or major) modification'' and ''significant part 70 permit modification'' to include all modifications under 40 CFR part 60.

District response to issue m. The District revised the definitions of ''Significant Part 70 Permit Modification'' and ''Title I (or Major) Modification'' in Rule 1301.C. by adding clarifing language that these modifications include all modifications under 40 CFR Part 60.

Issue n. Reporting of an Emergency: In order to obtain an affirmative defense in an emergency, Santa Barbara required in Rule 1303.F.d., among other things, that the permittee submit a description of the emergency within 4 days of the emergency. Santa Barbara had to revise 1303.F.d. to require submittal of notice of emergency to the permitting authority within 2 working days of the time when emission limitations were exceeded due to the emergency, to be consistent with § 70.6(g)(3)(iv) and in order to maintain the affirmative defense of emergency.

District response to issue n. The District revised Rule 1303.F.4. to require the permittee to submit a description of the emergency and all mitigating and corrective actions taken to the District within two (2) working days of the emergency.

Agricultural Operations

One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a

deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other Federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Other Changes

In addition to addressing interim approval deficiencies, the District has also adopted additional changes to its operating permit program. EPA has reviewed these changes and has determined that they are approvable. We have listed these other changes below.

Rule 1301.C. and Rule 370

The District revised the definitions of ''Part 70 Source'' and ''Major Source of Regulated Air Pollutants (excluding Hazardous Air Pollutants)'' to reflect the redesignation of attainment status.

Rule 1303.D.1.c.i. and Rule 1304.D.1.a.v.

The District revised its rules to allow for permit terms of less than five years.

What Is Involved in This Proposed Action?

Today, we are proposing to fully approve the District's revised operating permit program (Rules 1301, 1303, 1304 and 370). We have determined that the revisions made by the District removes the deficiencies identified by us in 1995. In addition, the District has made other changes to its operating permit program that are unrelated to the changes made to correct interim approval deficiencies. EPA is also proposing to approve these changes. We will make our final decision on our proposal after considering public comments submitted during the 30-day period from this publication date.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the California submittals and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve

State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply.

List of Subjects in 40 CFR Part 70

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

Dated: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26410 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 044–OPP; FRL–7087–8]

Clean Air Act Proposed Full Approval of Operating Permit Program; San Luis Obispo County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit program of the San Luis Obispo County Air Pollution Control District (District). The program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction.

On November 1, 1995, EPA granted interim approval to the District's operating permit program (60 FR 55460). The District has revised its operating permit program (Rule 216) to satisfy the conditions of the interim approval and this action proposes approval of these revisions made since the interim approval was granted. In addition, EPA proposes to approve two other changes that were made by the District but were not required to correct an interim approval issue.

DATES: Written comments must be received by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the District's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted Title V program at the following locations:

- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.
- San Luis Obispo County Air Pollution Control District: 3433 Roberto Court, San Luis Obispo, CA 93401.

You may review all the District rules by retrieving them from the California Air Resources Board (ARB) Web site. The location of the District rules on the ARB Web site is *http://arbis.arb.ca.gov/drdb/slo/cur.htm*.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region IX, at (415) 744–1259 (*rios.gerardo@epa.gov*) or Nahid Zoueshtiagh at (415) 744–1261.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. District's Operating Permit Program

A. What Is the Operating Permit Program?

Title V of the Clean Air Act Amendments of 1990 required all State and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the Clean Air Act (CAA). One goal of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year or more of any single hazardous air pollutant (HAP) 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 non-attainment classification.

San Luis Obispo County is classified as an attainment area for all NAAQS.

B. 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 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the State revising its program to correct any deficiencies. Because the District's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the District's program on November 1, 1995 (60 FR 55460).

This **Federal Register** notice describes the changes that the District has made to its Rule 216 (District's Operating Permit Program) since interim approval was granted. The District also revised its Rule 201 (Equipment Not Requiring a Permit) to correct one of the deficiency issues. Our notice also describes the change to this rule.

C. Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001, (65 FR 32035). The action was subsequently challenged by the Sierra Club and the

New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

EPA received a letter from one organization who commented on what they believe to be deficiencies with respect to Title V programs in California. We are not taking any actions on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** notice published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

D. What Are the Program Changes That EPA Is Proposing To Approve?

As discussed above, EPA granted final interim approval on November 1, 1995 (60 FR 55460) to the San Luis Obispo County Air Pollution Control District's (''District'') Title V program. As stipulated in that rulemakings, full approval of the District operating permit program was made contingent upon satisfaction of certain conditions. In response to EPA's interim approval action, the District made major revisions to its Rule 216 (Operating Permit Program), and some revisions to its Rule 201 (Equipment not Requiring a Permit) to remove the deficiencies identified by EPA. The District made its revised rule available to public review and comment, and held a hearing on its proposed action on March 28, 2001. After adoption on March 28, 2001, these revised rules were submitted to EPA via the California Air Resources Board (CARB) on May 18, 2001. We have included below a discussion of each interim approval deficiency issue (as enumerated and explained in our 1995 proposed and final actions on the District's operating permits program (see 60 FR 45685 and 60 FR 55460)), our conditions for correction, followed by a summary of how the District has corrected the deficiency. The Technical Support Document (TSD) for this action includes the District's submittal and details on the revisions made.

Issue 1. In our 1995 action, we identified two problematic items related to dealing with insignificant activities in the District's Operating Permits Program. These identified items were in the District's Rule 201 (Equipment not Requiring a Permit). The District was required to remove any activities from the District's list of insignificant activities that are subject to a unit-specific applicable requirement. (Reference 40 CFR 70.4(b)(2) and 70.5(c)).

District's Response to Issue 1. The District corrected this deficiency by amending its Rule 201.M to require a permit for any comfort air conditioning and refrigerant unit that contains more than 50 pounds of refrigerant. The District also added a new section to Rule 201.A about agricultural equipment. The revised rule now states that a Federal Title V Permit shall always be required for any source that is subject to District Rule 216, Federal Part 70 Permits, including agricultural sources as allowed for in the California Health and Safety Code. With this addition, the District will not need to revise its operating permit rule should California law change on exempting agricultural equipment.

Issue 2. The District was required to revise the definitions of ''Minor Part 70 Permit Modification'' in Rule 216 C.13, to ensure that significant changes to existing monitoring permit terms or conditions, rather than just relaxations of existing monitoring terms, are processed as significant permit modifications. (Reference: 40 CFR 70.7(e)(4)).

District's Response to Issue 2. The District revised Rule 216.C.15.d. to state that minor modifications do not involve any significant change to any existing federally-enforceable monitoring term or condition or involve any relaxation of reporting or recordkeeping requirements in the Part 70 Permit.

Issue 3. The District was required to revise Rule 216 J.1.b. to include notice ''by other means if necessary to assure adequate notice to the affected public.''(Reference 40 CFR 70.7(h)(1)).

District's Response to Issue 3. The District added 216.J.1.b.3 to address EPA's concerns. The revised rule now requires that any notice of a preliminary decision shall be provided by other means if necessary to assure adequate notice to the affected public.

Issue 4. San Luis Obispo County was required revise Rule 216 H.1.a.4. and L.1.e. to further limit the types of significant permit modifications that may be operated prior to receiving a final part 70 permit revision to only those modifications that are subject to section 112(g) or required to have a permit under Title I, parts C and D of the CAA and that are not otherwise prohibited by an existing part 70 permit. (Reference 40 CFR 70.5(a)(1)(ii)).

District's Response to Issue 4. The District made several changes to correct the deficiency issues. Several parts of Section H of Rule 216 were revised to clarify the timing for implementing various types of modification requests. These changes are as follows.

- Significant Part 70 Permit Actions—APCO must take final action to approve the application before the source may be operated pursuant to the modification (Rule 216.H.1.a.4).
- Minor Part 70 Permit Modifications—APCO must take final action to approve the application before the source may be operated pursuant to the modification (Rule 216.H.3.a).
- Non-Federal Minor Changes—a source requesting a non-federal minor change to its Part 70 Permit must submit an application for a modified Part 70 Permit to the District, with a copy to the EPA (Rule 216.H.4.a).

In addition Section L was revised as follows:

- Rule 216.L requires that when a complete application to modify a Part 70 Permit has been submitted, the stationary source must be operated in compliance with all applicable conditions on its Part 70 Permit, except as allowed under ''Administrative Part 70 Permit Amendment'', and all applicable conditions on an Authority to Construct for the modification issued pursuant to Rule 202 (Permits), and Rule 218 (Federal Requirements for Hazardous Air Pollutants), until the Part 70 Permit is revised or the modification is denied.
- Section 216.L.1.e. clarifies the requirements by stating that the protection granted by Subsections L.1.a through c for a significant Part 70 Permit modification shall not be applicable where a federally-enforceable condition of an existing Part 70 Permit would prohibit the modification of a source corresponding to the significant Part 70 Permit modification. In this case, the source shall obtain such modification to the source's Part 70 Permit prior to commencing operation of the modified portion of the source.

Issue 5. The District was required to revise Rule 216 to establish a binding requirement that the Part 70 Permit

Format will be included in all part 70 permits or revise Rule 216 to fully address all part 70 permit content requirements within the Rule. (Reference 40 CFR 70.6).

District's Response to Issue 5. The District significantly revised its Rule 216.F to ensure that each Part 70 Permit conforms to an EPA approved format and includes EPA's required elements. The revised Rule 216.F now requires more specific information instead of referencing to an approved format. For example it requires that Part 70 permit include the following elements:

- Monitoring requirements that assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement.
- Requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
- Detailed records of required monitoring information.

Other revisions to Rule 216.F include:

- A new provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.
- Specifying ''prompt'' reporting requirements as a verbal report as soon as reasonably possible, but in any case within four (4) hours after the deviation's detection, followed by a written report within 10 calendar days of having corrected the deviation.
- Clarify requirements for inspection and entry to facilities.

In addition the District revised its Rule 216.G to:

- Require applicants to include EPA in their notification when they are permitted to operate under an emissions cap that allows them to trade emissions within the emissions cap with 30 calendar days written notification. If the District objects to the emissions trade, the source, the District, and the EPA shall attach each such notice to their copy of the relevant permit.
- Include EPA in notification requirements under operational flexibility.

Issue 6. The District was required to revise Rule 216 to define and provide for giving notice to and responding to comments from affected States. Alternatively, San Luis Obispo could have made a commitment to: (1) Initiate rule revisions upon being notified by EPA of an application by a tribe for State status, and (2) provide affected State notice to tribes upon their filing for State status (i.e., prior to revising Rule 216 to incorporate affected State notice procedures). (Reference 40 CFR 70.2, 70.7(e)(2)(iii), and 70.8(b)).

District's Response to Issue 6. The District revised Rule 216.C.3 to define ''Affected State'' as:

(a) Whose air quality may be affected by the issuance, modification, or re-issuance of a Part 70 permit and that is contiguous to the State of California; or

(b) That is within 50 miles of the permitted source.

The District also revised Rule Section 2 of 216.J.2.b (Minor Part 70 Permit Modifications) and 216.J.2.c (Significant Part 70 Permit Actions) to provide that the APCO shall provide, to the EPA and any affected State, written notification of any refusal by the District to accept all recommendations that an ''affected'' State submitted for the Part 70 permit. The notice shall include the District's reasons for not accepting such recommendations.

Issue 7. The District was required to revise the rule to limit the exemption in Rule 216 D.4 for solid waste incineration units required to obtain a permit pursuant to section 3005 of the Solid Waste Disposal Act to those units that are not a major source. Section 70.3(b) states that all major sources, affected sources (acid rain sources), and solid waste incinerators regulated pursuant to section 129(e) of the CAA may not be exempted from Title V permitting. Although section 129(g)(1) of the CAA exempts solid waste incineration units subject to section 3005 of the Solid Waste Disposal Act from regulation under section 129, these units are still subject to Title V and part 70 if they are also major sources. (Reference: 40 CFR 70.3(a)(1)).

District's Response to Issue 7. The District deleted its Rule 216.D.4, therefore removing any exemptions from permitting of solid waste incineration units subject to Section 3005 of the Solid Waste Disposal Act.

Issue 8. San Luis Obispo County was required to revise Rule 216 H.4. to require that the permittee keep records describing non-federal minor changes (e.g., off-permit changes) and the emissions resulting from these changes. (Reference: 40 CFR 70.4(b)(14)(iv)).

District's Response to Issue 8. The District responded that while the District's original program submittal envisioned allowing off-permit non-federal minor changes, such actions were not allowed under the actual program that was implemented. In fact, any source subject to an applicable requirement in the District must first notify the District. For example, the District Rule 202 requires that an application be filed and approved before a non-federal minor change can be made, and failing to do so is a misdemeanor under California law and subject to fines and penalties. In sum, the District does not and will not allow off-permit changes. We agree with the District that the issue is moot because the District's revised Rule 216 has now clarified its procedure for various types of permit modification requests. In correcting our deficiency issue 4, the District has also responded to issue 8 and addressed our concerns resulting from the description of off-permit changes in the original program submittal.

Issue 9. One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V

permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Other District Revisions

In addition to the changes necessary to correct interim approval issues, the District made two other changes to its rule that we propose to approve as part of today's action. First, the District expanded Section A of its Rule 216 to allow the District's program to be suspended during any time period in which a 40 CFR Part 71 operating permit program is being administered. The two exceptions to this are when EPA objects to a permit or when EPA and the District agree, via a delegation agreement, to not suspend all or part of the District's rules. In the latter case, the delegation agreement would describe the terms, conditions and scope of the District's authority for implementing Part 71. This is approvable because it clarifies how the District's program will be administered during time periods where Part 71 is in place.

Second, the District added a statement to its definition of potential to emit (''PTE'') at Rule 216.C.18 to state that limiting conditions must be legally and practicably enforceable by EPA and citizens or by the District. The last paragraph of Rule 216.C.18 (previously Rule 216.C.6) now reads as follows:

> The potential to emit for an emissions unit is the maximum quantity of each air pollutant that may be emitted by the emissions unit, based on the emissions unit's physical and operational design. Physical and operational design shall include limitations that restrict emissions, such as hours of operation and type or amount of material combusted, stored or processed, provided such limitations are legally and practicably enforceable by EPA and citizens or by the District.

We propose to approve this revision because even though the new definition is not consistent with Part 70, it is consistent with the new meaning of potential to emit at 40 CFR § 70.2 as established by a 1996 court decision. In *Clean Air Implementation Project* v. *EPA*, No. 96–1224 (D.C. Cir. June 28, 1996), the court remanded and vacated the requirement for federal enforceability for potential to emit limits under part 70. Therefore, even though part 70 has not been revised, it should be read to mean, ''federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.''[1]

EPA has issued several guidance memoranda that discuss how the court rulings affect the definition of potential to emit under CAA § 112, New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs, and title V.[2] In particular, the memoranda reiterate the Agency's earlier requirements for practicable enforceability for purposes of effectively limiting a source's potential to emit.[3] For example, practicable enforceability for a source-specific permit means that the permit's provisions must, at a minimum: (1) Be technically accurate and identify which portions of the source are subject to the limitation; (2) specify the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); (3) be independently enforceable and describe the method to determine compliance including appropriate monitoring, recordkeeping and reporting; (4) be permanent; and (5) include a legal obligation to comply with the limit. EPA will rely on San Luis Obispo County implementing this new definition in a manner that is consistent with the court's decisions and EPA policies. In addition, EPA wants to be certain that absent federal and citizen's enforceability, San Luis Obispo County's enforcement program still provides sufficient incentive for sources to comply with permit limits. This proposed rulemaking serves as notice to San Luis Obispo County about our expectations for ensuring the permit limits they impose are enforceable as a practical matter (i.e., practicably enforceable) and that its enforcement program will still provide sufficient compliance incentive. In the future, if San Luis Obispo County does not implement the new definition consistent with our guidance, and/or

[1] See also, *National Mining Association (NMA)* v. *EPA*, 59 F.3d 1351 (D.C. Cir. July 21, 1995) (Title III) and *Chemical Manufacturing Ass'n (CMA)* v. *EPA,* No. 89–1514 (D.C. Cir. Sept. 15 1995) (Title I).

[2] *See*, e.g., January 22, 1996, Memorandum entitled, ''Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement to EPA Regional Offices; January 31, 1996 paper to the Members of the Subcommittee on Permit, New Source Review and Toxics Integration from Steve Herman, OECA, and Mary Nichols, Assistant Administrator of Air and Radiation; and the August 27, 1996 Memorandum entitled, ''Extension of January 25, 1995 Potential to Emit Transition Policy'' from John Seitz, Director, OAQPS and Robert Van Heuvelen, Director, Office of Regulatory Enforcement.

[3] *See*, e.g., June 13, 1989 Memorandum entitled, ''Guidance on Limiting Potential to Emit in new Source Permitting, from Terrell F. Hunt, Associate Enforcement Counsel, OECA, and John Seitz, Director, OAQPS, to EPA Regional Offices. This guidance is still the most comprehensive statement from EPA on this subject. Further guidance was provided on January 25, 1995 in a memorandum entitled ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, ORE to Regional Air Directors. Also please refer to the EPA Region 7 database at *http://www.epa.gov/region07/programs/artd/air/policy/policy.htm for more information.*

has not established a sufficient compliance incentive absent Federal and citizen's enforceability, EPA could find that the District has failed to administer or enforce its program and may take action to notify the District of such a finding as authorized by 40 CFR 70.10(b)(1).

E. What Is Involved in This Action?

We have determined that the District has addressed our specific concerns identified as interim approval issues. Therefore, we are now proposing to fully approve the District's Operating Permit Program. We are also proposing to approve two additional changes that were made beyond those necessary to correct interim approval issues.

II. Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the District submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer.

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 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26419 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 046–OPP; FRL–7087–3]

Clean Air Act Proposed Full Approval of Operating Permit Program; Mojave Desert Air Quality Management District, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve the operating permit program of the Mojave Desert Air Quality Management District (''Mojave'' or ''District''). The Mojave operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to the Mojave operating permit program on February 5, 1996, but listed conditions that Mojave's program would be required to meet for full approval. Mojave has revised its program to satisfy the conditions of the interim approval. Thus, this action proposes full approval of the Mojave operating permit program as a result of those revisions.

DATES: Comments on the proposed full approval discussed in this proposed action must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of Mojave's submittals, and other supporting documentation relevant to

this action, during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

You may also see copies of the submitted operating permit program at the following locations:

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

The Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392.

A electronic copy of Mojave's operating permit program rules may be available via the Internet at *http://www.arb.ca.gov/drdb/moj/cur.htm.* However, the online version of these rules may be different from the version submitted to EPA for approval. Readers are cautioned to verify that the amended dates of the rules listed are the same as those for the rules submitted to EPA for approval (June 4, 2001). The official submittal is available only at the three addresses listed above.

FOR FURTHER INFORMATION CONTACT: Roger Kohn, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1238 or kohn.roger@epa.gov.

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?
Are there other issues with the program?
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 state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''severe,'' major sources include those with the potential of emitting 25 tons per year or more of volatile organic compounds or nitrogen oxides. Part of Mojave is located in an area designated as severe nonattainment for ozone. Hence, the potential to emit threshold for major sources in that area is 25 tons per year or more of volatile organic compounds or nitrogen oxides.

What Is Being Addressed in This Document?

Where an operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the Mojave operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to its program in a rulemaking published on February 5, 1996 (61 FR 4217). The interim approval rulemaking incorporated by reference the conditions described in the July 3, 1995 (60 FR 34488) proposed rulemaking for interim approval that had to be met in order for the Mojave program to receive full approval. On June 4, 2001, the California Air Resources Board, on behalf of Mojave, submitted the District's revised operating permit program that contains the needed changes for full approval identified in the interim approval rulemaking. This document describes these changes.

Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

EPA received a comment letter from one person on what he believes to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** document published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

What Are the Program Changes That EPA Is Proposing To Approve?

As stipulated in the February 5, 1996 (61 FR 4217) rulemaking, full approval of the Mojave operating permit program was made contingent upon satisfaction of the following conditions:

(1) Mojave must revise Rule 1203(G)(3)(g), which prohibits the permit shield from applying to administrative permit amendments and significant permit modifications, to include a reference to minor permit modifications as well. In accordance with 40 CFR 70.7(e)(2)(vi), the permit shield cannot apply to minor permit modifications, and the rule must state this clearly.

The District revised Rule 1203(G)(3)(g) to prohibit the permit shield from applying to minor permit modifications as well.

(2) Mojave must add a provision for sending the final permit to EPA, in accordance with 40 CFR 70.8(a)(1). Mojave's Rule 1203(B)(1)(c) only provides for sending the proposed permit to EPA.

The District added provision 1203(B)(1)(e) to specifically require that the final permit be provided to EPA.

(3) Mojave must adopt Rule 1210 (Acid Rain Provisions of Federal Operating Permits), in accordance with 40 CFR 70.4(b)(11)(iv).

The District adopted Rule 1210 on June 28, 1995.

(4) Mojave must amend Rule 1206(A)(1)(a)(i), which provides that no reopening is required if the effective date of the additional applicable requirement is later than the date on which the permit is due to expire. However, if the original permit or any of its terms and conditions are extended pursuant to 40 CFR 70.4(b)(10), the permit must be reopened to include a new applicable requirement, and a statement must be made to this effect in Mojave's rule, in accordance with 40 CFR. 70.7(f)(1)(i).

The District added a provision Rule 1206(A)(1)(a)(i) to require the permit to be reopened if a new applicable requirement's effective date falls during an extension of a Title V permit's expiration date pursuant to Rule 1202(E)(2).

(5) Mojave must clarify in Rule 1203(G)(3)(b) that the permit shield shall not limit liability for violations which occurred prior to or at the time of the issuance of the federal operating permit. This is so that violations which are continuing at the time of permit issuance will not be shielded from potential enforcement action, in accordance with 40 CFR 70.6(f)(3)(ii).

The District modified Rule 1203(G)(3)(b) to clarify that the permit shield would not limit liability for violations which occurred prior to or which were ongoing at the time of the issuance of the Federal Operating Permit.

(6) In accordance with 40 CFR 70.5(c), Mojave must provide a demonstration that activities that are exempt from part 70 permitting are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, Mojave may restrict the exemptions (including any director's discretion provisions) to activities that are not likely to be subject to an applicable requirement and emit less than District-established emission levels. The District should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements.

Instead of demonstrating that each activity on Mojave's insignificant activity list is truly insignificant, the District elected to establish significant source emissions level cut-offs below which activities would presumably be insignificant. To implement this, the District amended Rule 219(D)(1)(a) to lower the cut-off threshold from five to two tons per year of any regulated air pollutant or 10% of the applicable threshold for determination of a major facility, whichever is less. For a Hazardous Air Pollutant (HAP), the cut-off threshold is any de minimis level promulgated pursuant to CAA section 112(g), any significance level defined in 40 CFR 52.21(b)(23)(i), or 0.5 ton per year of any such HAP, whichever is less.

(7) Mojave must add the word ''and'' at the end of sections (b) and (c) in Rule 219(B)(2), in order to clarify that the four gatekeepers must all apply in order for equipment to be exempt from getting a federal operating permit, in accordance with 40 CFR 70.5(c).

The District made the required change to Rule 219(B)(2).

(8) Mojave must add to Rule 1203(D)(1)(e)(i) a reference to the requirement for the clear identification of all deviations with respect to reporting, in accordance with 40 CFR 70.6(a)(3)(iii)(A).

The District modified Rule 1203(D)(1)(e) to require the identification of all instances of deviations in monitoring reports.

(9) Mojave must add to Rule 1203(D)(1)(e)(ii) a reference to the requirement to specify the probable cause and corrective actions or preventive measures taken with regard to reporting a deviation, in accordance with 40 CFR 70.6(a)(3)(iii)(B).

The District modified Rule 1203(D)(1)(e)(ii) to require prompt and adequate reporting pursuant to requirements in Rule 430, which specify that cause and corrective actions must be identified in reporting deviations .

(10) In addition to the District-specific issues arising from Mojave's program submittal and locally adopted regulations, California state law currently exempts agricultural production sources from permit requirements. In order for this program to receive full approval (and avoid a disapproval upon the expiration of this interim approval), the California Legislature must revise the Health and Safety Code to eliminate the exemption of agricultural production sources from the requirement to obtain a permit.

One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

What Is Involved in This Proposed Action?

The EPA proposes full approval of the operating permits program submitted by Mojave based on the revisions submitted on June 4, 2001, which satisfactorily address the program deficiencies identified in EPA's February 5, 1996 Interim Approval Rulemaking. See 61 FR 4217.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the MDAQMD submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **Note**) do not apply.

List of Subjects in 40 CFR Part 70

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

Dated: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26417 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA051–OPP; FRL–7087–2]

Clean Air Act Proposed Full Approval of Operating Permit Program; Sacramento Metropolitan Air Quality Management District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve Rule 207 (Title V—Federal Operating Permit Program) and the District requirements for permit applications (''List and Criteria'') which are part of the operating permit program of the Sacramento Metropolitan Air Quality Management District (''Sacramento'' or ''District''). The District operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdictions. EPA granted interim approval to the District operating permit program on August 4, 1995, but listed certain deficiencies in the program preventing full approval. The District has revised Rule 207 and the ''List and Criteria'' to correct the deficiencies of the interim approval and this action proposes full approval of those revisions.

DATES: Comments on this proposed rule must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105 (Attention: Mark Sims). You can inspect copies of the Sacramento submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the District's submitted operating permit program at the following locations: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

The Sacramento Air Quality Management District, 777 12th Street, 3rd Floor, Sacramento, California, 95814–1908.

An electronic copy of Sacramento's operating permit program (rules 201, 207, and List and Criteria) may be available via the Internet at *http://www.arb.ca.gov/drdb/sac/cur.htm.* However, the versions of District rule 207 and the List and Criteria at the above internet address may be different from the versions submitted to EPA for approval. Readers are cautioned to verify that the adoption date of rule 207 and the List and Criteria listed is the same date as the rule 207 and List and Criteria submitted to EPA for approval. The official submittal is available only at the three addresses listed above.

FOR FURTHER INFORMATION CONTACT: Mark Sims, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1229 or *sims.mark@epa.gov*.

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?
Are there other issues with the program?
What are the program changes that EPA is approving?
What is involved in this proposed action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. A goal of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''severe,'' major sources include those with the potential of emitting 25 tons per year or more of volatile organic compounds or nitrogen oxides. EPA has classified the Sacramento Metropolitan Area as a severe nonattainment area for ozone (40 CFR 81.305).

What Is Being Addressed in This Document?

The California Air Resources Board submitted an administratively complete permitting program on behalf of the District on August 1, 1994. Because the District's operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval of the program, and conditioned full approval on the District revising its program to correct the deficiencies. Thus, EPA granted interim approval to the District's program in a rulemaking published on August 4, 1995 (60 FR 39862). The interim approval notice described the program deficiencies and revisions that had to be made in order for the District program to receive full approval. Since that time, the District has revised and the California Air Resources Board, on behalf of the District, has submitted a revision to the District's operating permit program by letter dated June 1, 2001. This **Federal Register** document describes the changes that have been made to the Sacramento operating permit program as submitted on June 1, 2001, and the basis for EPA proposing full approval of the program.

Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or

implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

EPA received a comment letter from one organization on what they believe to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** document published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

What Are the Program Changes That EPA Is Approving?

As discussed in the August 4, 1995 (60 FR 39862) rulemaking, full approval of the Sacramento operating permit program was made contingent upon satisfaction of the following conditions:

Issue (1): One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Issue (2): The District was required to revise its insignificant activities permit exemption list or submit information or criteria justifying these exemptions. (40 CFR 70.5(c)).

Rule or Program Change: The District corrected this deficiency by revising its List and Criteria to incorporate the insignificant activities developed by the EPA–ARB–CAPCOA Insignificant Activities Workgroup. The District included justifications for each of the identified activities. The District also revised the List and Criteria in order to clarify that insignificant emission units are not exempt from Title V.

Issue (3): The District's limits on operational flexibility were not as explicitly restrictive as the limits contained in 40 CFR 70.4(b)(12) concerning Title I modifications.

Rule or Program Change: The District corrected this deficiency by revising Rule 207, section 308.3.b., to not allow owners and operators to make operational changes that are significant Title V permit or Title I modifications.

Issue (4): The District was required to change its rule to adopt appropriate permit issuance deadlines for sources that were initially deferred from the program due to their actual emissions but did not obtain federally enforceable limits on their potential to emit.

Rule or Program Change: The District corrected this deficiency by revising Rule 207, section 301.1, to require owners and operators of stationary sources with a potential to emit at or above major source trigger levels but with actual emissions below levels stated in section 301 to submit complete Title V permit applications by no later than June 30, 2001.

Issue (5): The District was required to add emissions trading provisions to the rule consistent with 40 CFR 70.6(a)(10). The permit content section of the rule

must allow provisions for trading within the facility where an applicable requirement provides for trading increases and decreases without case-by-case approval.

Rule or Program Change: The District did not make any rule changes to address this deficiency. However, the District believes that Rule 207 contains the necessary language to ensure permits will include terms and conditions to allow emissions trading without case-by-case approval if allowed by an applicable requirement. EPA now agrees that Rule 207 contains language consistent with 40 CFR 70.6(a)(10). See Rule 207, section 308.

Issue (6): The District rule was to explicitly require that the permit include fugitive emissions in the same manner as stack emissions (40 CFR 70.3(d)).

Rule or Program Change: The District corrected this deficiency by revising Rule 207, section 305.1, to require that fugitive emissions shall be included in the Title V permit in the same manner as stack emissions. The District also revised its List and Criteria to require sources to characterize fugitive emissions in the Title V permit application.

Issue (7): The District rule was required to state that the District will provide public notice by means other than newspaper notice and a mailing list when necessary to ensure that adequate notice is given (40 CFR 70.7(h)).

Rule or Program Change: The District corrected this deficiency by revising Rule 207, section 403.1, to match the language in 40 CFR 70.7(h). The rule now requires for public notice that notice also be given by other means such as the District Website, community groups, and public meetings when necessary to ensure that adequate notice is given.

What Is Involved in This Proposed Action?

Sacramento has corrected the deficiencies cited in the interim approval on August 4, 1995 (60 FR 39862), and EPA proposes full approval the Sacramento operating permit program Rule 207. Sacramento made two additional changes to Rule 207 that were not necessary to correct interim approval issues. EPA is acting to approve a rule change concerning potential to emit and is not acting on a rule change concerning the effective date of the rule.

EPA proposes to approve a revision to the Rule 207, Section 226, definition of ''potential to emit.'' The District revised the definition of potential to emit to state that limitations on the physical or operational design capacity, including emissions control devices and limitations on hours of operation, may be considered only if such limitations are federally enforceable *or legally and practicably enforceable by the District* (emphasis added). This change is consistent with litigation affecting EPA's consideration of the potential to emit issue. In *Clean Air Implementation Project* v. *EPA,* No. 96–1224 (D.C. Cir. June 28, 1996), the court remanded and vacated the requirement for federal enforceability for potential to emit limits under part 70. Even though part 70 has not been revised it should be read to mean, ''federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.'' [1]

EPA proposes to approve this revision because Sacramento's rule is consistent with the current meaning of potential to emit at 40 CFR 70.2. EPA has issued several guidance memoranda that discuss how the court rulings affect the definition of potential to emit under CAA section 112, New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs, and title V.[2] In particular, the memoranda reiterate the Agency's earlier requirements for practicable enforceability for purposes of effectively limiting a source's potential to emit.[3] For example, practicable enforceability for a source-specific permit means that the permit's provisions must, at a minimum: (1) Be technically accurate and identify which portions of the source are subject to the limitation; (2) specify the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); (3) be independently enforceable and describe the method to determine compliance including appropriate monitoring, recordkeeping and reporting; (4) be permanent; and (5) include a legal obligation to comply with the limit.

EPA will rely on Sacramento implementing this new definition in a manner that is consistent with the court's decisions and EPA policies. In addition, EPA wants to be certain that absent federal and citizen's enforceability, Sacramento's enforcement program still provides sufficient incentive for sources to comply with permit limits. This proposal provides notice to Sacramento on our expectations for ensuring the permit limits they impose are enforceable as a practical matter (i.e., practicably enforceable) and that its enforcement program will still provide sufficient compliance incentive. In the future, if Sacramento does not implement the new definition consistent with our guidance, and/or has not established a sufficient compliance incentive absent Federal and citizen's enforceability, EPA could find that the District has failed to administer or enforce its program and may take action to notify the District of such a finding as authorized by 40 CFR 70.10(b)(1).

Sacramento deleted the effective date provision of Rule 207 which stated that the rule becomes effective on the date it is approved by EPA. EPA is currently evaluating the approvability of this change to Rule 207. Because EPA has not yet determined whether this change is approvable under the requirements of 40 CFR part 70, and since this change was not required by EPA for Sacramento to receive full program approval, EPA is taking no action on this change at this time.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Sacramento submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region IX office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the

[1] See also, *National Mining Association (NMA)* v. *EPA,* 59 F. 3d 1351 (D.C. Cir. July 21, 1995) (Title III) and *Chemical Manufacturing Ass'n (CMA)* v. *EPA,* No. 89–1514 (D.C. Cir. Sept. 15, 1995) (Title I).

[2] *See*, e.g., January 22, 1996, Memorandum entitled, ''Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement to EPA Regional Offices; January 31, 1996 paper to the Members of the Subcommittee on Permit, New Source Review and Toxics Integration from Steve Herman, OECA, and Mary Nichols, Assistant Administrator of Air and Radiation; and the August 27, 1996 Memorandum entitled, ''Extension of January 25, 1995 Potential to Emit Transition Policy'' from John Seitz, Director, OAQPS and Robert Van Heuvelen, Director, Office of Regulatory Enforcement.

[3] *See,* e.g., June 13, 1989 Memorandum entitled, ''Guidance on Limiting Potential to Emit in new Source Permitting, from Terrell F. Hunt, Associate Enforcement Counsel, OECA, and John Seitz, Director, OAQPS, to EPA Regional Offices. This guidance is still the most comprehensive statement from EPA on this subject. Further guidance was provided on January 25, 1995 in a memorandum entitled ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, director, ORE to Regional Air Directors. Also please refer to the EPA Region 7 database at *http://www.epa.gov/region07/programs/artd/air/policy/policy.htm* for more information.

docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves State law as meeting federal requirements and imposes no additional requirements beyond those imposed by State law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), because it proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duties beyond that required by State law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under State law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 on 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 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 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26418 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA052–OPP; FRL–7086–8]

Clean Air Act Proposed Full Approval of Operating Permit Program; South Coast Air Quality Management District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve certain revisions of Rule 3000 (General), Rule 3002 (Requirements), Rule 3004 (Permit Types and Content), and Rule 3005 (Permit Revisions), which are part of the operating permit program of the South Coast Air Quality Management District (''South Coast'' or ''District''). The District operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdictions. EPA granted interim approval to the District operating permit program on August 29, 1996, but listed certain deficiencies in the program preventing full approval. The District has revised Rules 3000, 3002, 3004, and 3005 to correct the deficiencies of the interim approval and this action proposes full approval of those revisions. South Coast has made other changes to its part 70 program since EPA granted interim approval to the program. EPA is not taking action on these other changes at this time.

DATES: Comments on this proposed rule must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the South Coast submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the District's submitted operating permit program at the following locations:

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

The South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California 91765–4182.

An electronic copy of South Coast's operating permit program (Regulation XXX, rules 3000–3007, Title V Permits) may be available via the Internet at *http://www.arb.ca.gov/drdb/sc/cur.htm.* However, the versions of District rules 3000, 3002, 3004, and 3005 may be different from the versions submitted to EPA for approval. Readers are cautioned to verify that the adoption dates of rules 3000, 3002, 3004, and 3005 are the same

dates as the rules submitted to EPA for approval. The official submittal is available only at the three addresses listed above.

FOR FURTHER INFORMATION CONTACT: Mark Sims, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1229 or *sims.mark@epa.gov.*

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?
Are there other issues with the program?
What are the program changes that EPA is approving?
What is involved in this proposed action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. A goal of the operating permit program is to improve compliance by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''extreme,'' major sources include those with the potential of emitting 10 tons per year or more of volatile organic compounds or nitrogen oxides. EPA has classified the South Coast Air Basin as an extreme nonattainment area for ozone and a serious nonattainment area for PM_{10} (70 ton per year major source threshold). (See 40 CFR 81.305).

What Is Being Addressed In This Document?

The California Air Resources Board submitted to EPA the District's title V program on December 27, 1993, except for the District permit application forms, which were submitted on March 6, 1995. On March 30, 1995, EPA deemed the District's operating permit program to be administratively complete. Because the District's operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval of the program, and conditioned full approval on the District revising its program to correct the deficiencies. Thus, EPA granted interim approval to the District's program in a rulemaking published on August 29, 1996 (61 FR 45330). The interim approval notice described the program deficiencies and revisions that had to be made in order for the District program to receive full approval. Since that time, the District has revised and the California Air Resources Board, on behalf of the District, has submitted revisions to the District's operating permit program on August 2, 2001, and October 2, 2001. This **Federal Register** notice describes the changes that South Coast has made to its operating permit program to correct interim approval deficiencies, and the basis for EPA proposing full approval of these changes. EPA is not taking action on other rule changes made since interim approval.

Are There Other Issues With The Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

EPA received a comment letter from one organization on what they believe to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** document published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

What Are the Program Changes That EPA Is Approving?

As discussed in the August 29, 1996 (61 FR 45330) rulemaking, full approval of the South Coast operating permit program was made contingent upon satisfaction of the following conditions:

Issue (1): One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent,

Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

Issue (2): The District was required to revise its insignificant activities permit exemption list or submit information or criteria justifying these exemptions. (40 CFR 70.5(c)).

Rule or Program Change: In 1998, the District revised its Technical Guidance Document by deleting the List of Insignificant Activities. The District now requires Title V permit applicants to list all equipment claimed as exempt from New Source Review permit requirements (per Rule 219). The District created Form 500–B, List of Exempt Equipment, for this purpose. EPA interprets this list of ''exempt'' equipment to apply only to New Source Review requirements. Any equipment exempt from permitting per Rule 219 is not exempt from the Title V permit program, is subject to all applicable requirements, and must be listed in the Title V permit along with all applicable requirements.

Issue (3): The District was required to revise its minor permit modification procedures to not allow significant permit modifications to be processed as minor permit modifications. (40 CFR 70.7(e)(2)(i)(3),(4), and (4)(A).)

Rule or Program Change: The District revised Rules 3000(b)(12) and 3005(c) to correct this deficiency. Rule 3005(c) now allows minor permit revision procedures to be used only for permit revisions described in Rule 3000(b)(12), and does not allow modifications which result in emission increases up to the higher ''*de minimis*'' emission thresholds contained in Rule 3000(b)(6) to be processed as minor permit revisions. The District made the following three revisions to correct the deficiencies specifically cited in the 1996 **Federal Register** document:

(1) The District added to Rule 3000(b)(12)—Minor Permit Revision—sections (viii) and (ix) that allow minor permit revisions for NSPS and NESHAP sources provided that the source ''is not an installation of a new permit unit subject to an NSPS pursuant to 40 CFR part 60, or a NESHAP pursuant to 40 CFR part 61 or 63; and is not a modification or reconstruction of an existing permit unit, resulting in new or additional NSPS requirements pursuant to 40 CFR part 60, or new or additional NESHAP requirements pursuant to 40 CFR part 61 or 63;''

(2) The District revised Rule 3005(c) to refer to a minor permit revision definition consistent with 40 CFR part 70, and does not allow revisions that trigger other regulatory requirements such as New Source Review. In addition, Rule 3005(d), Group Processing Procedures for Multiple Minor Permit Revisions, only allows minor permit revisions if emissions from such changes are collectively below 5 tons per year of criteria pollutants; and

(3) District Rule 3000(b)(12)(vii) only allows minor permit revisions for any Title V permit revision that does not establish or change a permit condition that a facility has assumed to avoid an applicable requirement.

Issue (4): Initial implementation of the District program did not include all Title V sources and the District received source category limited interim approval. The District's regulation, however, included language that expanded the applicability of the program three years after the program effective date, and ensured that all Title V sources will be permitted within five years of full, partial, or interim approval by EPA of the District Title V program. Although EPA considered this ''phase-in'' to be an interim approval issue, no change to the regulation is required to resolve the issue.

Rule or Program Change: No rule revision was necessary to correct this deficiency, since the phase-in period ended in February 2000 and the issue is now moot. All known Title V sources have by this time submitted Title V permit applications as required by Rules 3001(b) and 3003(a)(3).

Issue (5): The District was required to amend Rule 3005(d), Group Processing Procedures for Multiple Minor Permit Revisions, to delete reference to Rule 3000(b)(6), the District's higher de minimis significant permit revision levels when instructing an applicant of its responsibilities.

Rule or Program Change: To correct this deficiency, the District revised Rule 3005(c)(1), Minor Permit Revisions Applicability, to delete the reference to the higher de minimis significant permit revision levels contained in Rule 3000(b)(6). Rule 3005(d)(1) now clearly states that group processing procedures

for multiple minor permit revision applications are only valid for emissions collectively below 5 tons per year. Although still referencing Rule 3000(b)(6), Rule 3005(d)(2) now has no bearing on whether applications subject to group processing provisions qualify as minor permit revisions.

Issue (6): The District was required to amend Rule 3004(a)(4)(C) to conform with part 70 language. The rule required that the permit include periodic monitoring or recordkeeping representative of the source's compliance for the terms of the permit'' rather than ''with the terms of the permit.'' 40 CFR 70.6(a)(3)(i)(B).

Rule or Program Change: To correct this deficiency, the District revised the language of Rule 3004(a)(4)(C) from ''for the term of the permit'' to ''with the terms of the permit.''

Issue (7): The District was required to revise Rule 3004(a)(9) to specify that any trading of emission increases and decreases allowed without changes to the permit must meet the requirements of the part 70 program. 40 CFR 70.6(a)(10)(iii).

Rule or Program Change: To correct this deficiency, the District revised Rule 3004(a)(9)(C) to state that the terms and conditions of emission trades ''must meet all applicable requirements and requirements of this regulation.''

Issue (8): The District was required to amend its operating permit program to provide that a source that is granted a general permit shall be subject to enforcement action for operating without a permit if the source is later determined not to qualify for the conditions and terms of the general permit, regardless of any applicable shield provisions. 40 CFR 70.6(d)(1).

Rule or Program Change: The District added Rule 3004(e)(8) to correct this deficiency. The rule states that if the equipment that has been approved for coverage under a general permit is later determined not to qualify for the conditions and terms of the general permit, the Title V facility shall be subject to enforcement action for operating without a Title V permit.

Issue (9): The District was required to amend Rule 3002(g)(1). The rule allows an emergency to constitute an affirmative defense if properly signed, contemporaneous operating logs or other credible evidence are kept at the facility, but the rule did not require the logs or other evidence to demonstrate that conditions set out in the rule were met by the facility. 40 CFR 70.6(g)(3).

Rule or Program Change: To correct this deficiency, the District revised Rule 3002(g)(1) to require that properly signed, contemporaneous operating logs or other credible evidence that demonstrates compliance with the rule are kept at the facility.

Issue (10): The District was required to modify the definition of ''renewal'' in Rule 3000(b)(22) to clarify that permits will be renewed at least every 5 years, regardless of whether renewal is necessary to incorporate new regulatory requirements.

Rule or Program Change: To correct this deficiency, the District revised Rule 3000(b)(22) to reference Rule 3004(f), Permit Expiration and Renewal, which specifies that except for solid waste incineration facilities, Title V permits expire 5 years from the date of issuance unless such permits have been renewed. Rule 3004(f) further states that Title V permits for solid waste incineration facilities subject to section 129(e) of the Clean Air Act expire 12 years after issuance, but must be reviewed every 5 years. See 40 CFR 70.4(b)(3)(iii) and (iv).

Issue (11): The District was required to revise Rule 3005(g)(1), changes that violate an express permit term or condition, to not allow changes that would violate compliance certification requirements instead of compliance plan requirements. Clean Air Act Section 502(b)(10).

Rule or Program Change: To correct this deficiency, the District revised Rule 3005(i)(1)(C)(i) from ''compliance plan requirements'' to ''compliance certification requirements.'' The rule now correctly states that changes that would violate compliance certification requirements are not allowed.

Issue (12): The District was required to revise Rule 3005(g) to specify that the District and the source must attach a copy of any notice of Clean Air Act Section 502(b)(10) changes to the permit. 40 CFR 70.4(b)(12).

Rule or Program Change: To correct this deficiency, the District added Rule 3005(i)(1)(D) which states that the District and the facility have attached the written notice to their copy of the relevant permit.

Issue (13): The District was required to add provisions to Rule 3005(i) to specify the following: (1) Any change allowed under this section must meet all applicable requirements and shall not violate existing permit terms; (2) the source must provide contemporaneous notice to the District and EPA; and (3) the source must keep a record of the change. 40 CFR 70.4(b)(14).

Rule or Program Change: To correct this deficiency, the District revised Rule 3005(k), Prohibition on Changes Not Specifically Allowed by Permit, and Rule 3005(i), Operational Flexibility. Rule 3005(i)(1)(C)(i) requires a change to meet all regulatory requirements; Rule 3005(i)(1)(A) requires contemporaneous notice; and Rule 3005(i)(1)(D) requires recordkeeping in that the written notice must be attached to the relevant permit. Rule 3005(i)(1) prohibits the violation of express permit terms as required under 40 CFR 70.4(b)(14).

Issue (14): The District was required to either submit to EPA an approvable version of Rule 430, Breakdown Provisions, for inclusion into the State Implementation Plan, or revise Rule 3002(g), Emergency Provisions, by deleting the reference to Rule 430 as a requirement a source must meet to avail itself of an affirmative defense. 40 CFR 70.6(g).

Rule or Program Change: On October 2, 2001, the California Air Resources Board on behalf of the District requested to EPA that Rule 3002(g)(6), the reference to Rule 430, be withdrawn from the original Title V program and from the August 2, 2001, submittal. By removing Rule 3002(g)(6) from the federal Title V program, the District corrected this program deficiency.

What Is Involved in This Proposed Action?

South Coast has corrected the deficiencies cited in the interim approval on August 29, 1996 (61 FR 45330), and EPA proposes full approval the South Coast operating permit program. EPA is only taking action to approve program changes made by South Coast to correct interim approval deficiencies. EPA is not taking action on other program changes made since interim approval was granted, but will evaluate these additional changes and take appropriate action at a later date.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the South Coast submittals and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region IX office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58

FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves State law as meeting federal requirements and imposes no additional requirements beyond those imposed by State law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), because it proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duties beyond that required by State law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under State law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal Government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 on 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 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 12, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26420 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 043–OPP; FRL–7086–9]

Clean Air Act Proposed Full Approval of Operating Permit Program; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit program of the Ventura County Air Pollution Control District (District). The program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction.

On November 1, 1995, EPA granted interim approval to the District's operating permit program. The District has revised its operating permit program (Rule 33) to satisfy the conditions of the interim approval and this action proposes approval of these revisions made since the interim approval was granted.

DATES: Written comments must be received by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the District's submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105.

You may also see copies of the submitted Title V program at the following locations:

- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.
- Ventura County Air Pollution Control District: 669 County Square Drive, Ventura, CA 93003.

You may review the District rules by retrieving them from the California Air Resources Board (ARB) website. The location of the District rules is *http://arbis.arb.ca.gov/drdb/ven/cur.htm.*

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region IX, at (415) 744–1259 (*rios.gerardo@epa.gov*) or Nahid Zoueshtiagh at (415) 744–1261.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. District's Part 70 Permits

A. What Is the Operating Permit Program?

Title V of the Clean Air Act Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit

programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the 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 the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year or more of any single hazardous air pollutant (HAP) 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 non-attainment classification.

Ventura County is classified as a severe non-attainment area for ozone. Therefore, for reactive organic compounds or nitrogen oxides, the threshold for obtaining an operating permit is 25 tons per year or more of either reactive organic compounds or nitrogen oxides. Ventura County meets the NAAQS for all other pollutants.

B. 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 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct any deficiencies. Because the District's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the District's program on November 1, 1995.

This **Federal Register** document describes the changes that the District has made to its Rule 33 (District's operating permit program) since interim approval was granted.

C. Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

EPA received a letter from one person who commented on what he believes to be deficiencies with respect to title V programs in California. We are not taking any actions on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** document published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

D. What Are the Program Changes That EPA Is Proposing To Approve?

As discussed above, EPA granted final interim approval on November 1, 1995 (60 FR 55460) to the District's title V program. As stipulated in that rulemaking, full approval of the District operating permit program was made contingent upon satisfaction of certain conditions. In response to EPA's interim approval action, the District revised its Rule 33 (operating permit program) to remove the deficiencies identified by EPA. The District held a workshop (November 30, 2000), made the draft revised rule available to public review and comments (March/April 2001), and adopted the revisions on April 10, 2001. The revised program was submitted to EPA on May 21, 2001. We have included below a discussion of each of the interim approval deficiency issues (as enumerated and explained in EPA's proposed action in 1994 (see 59 FR 60104)), our conditions for correction, and a summary of how the District has corrected each of these deficiency issues. The Technical Support Document (TSD) for this action includes the District's submittal and details of the revisions made.

Issue a. Insignificant activities—Rules 33.2 and 23 provide the framework for Ventura's insignificant activities provisions. For its program to be fully approvable, Ventura needed to provide a demonstration that activities classified as ''insignificant'' are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, the District could restrict insignificant activities to those that are not likely to be subject to an applicable requirement and emit less than District-established emission levels. The District needed to establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. (Reference: 40 CFR 70.4(b)(2) and 70.5(c))

District's response to issue a. The District revised its Rule 33 to add a new term under its Rule 33.1.10. The new term defines and specifies ''Insignificant Activity'' to address EPA's deficiency issue. The revision satisfies the part 70 requirements.

Issue b. Revision process for significant changes to monitoring terms and conditions—the definitions of ''minor permit modification'' and ''significant part 70 permit modification'' in Rule 33.1 needed to be revised to ensure that significant changes to existing monitoring permit terms or conditions are processed as significant permit modifications. (Reference: 40 CFR 70.7(e)(4)).

District's response to Issue b. The District revised its Rule 33 to address EPA's requirement. The newly adopted Rule 33.1.11.d states that the modification does not involve any significant change to any existing federally-enforceable monitoring term or condition or involve any relaxation of reporting or recordkeeping requirements in the part 70 permit.

Issue c. Operation of modifications prior to permit revision—except in the case when a federally enforceable permit condition would prohibit it, Ventura's Rule 33.9 A.1. allowed sources to make significant

modifications prior to receiving a part 70 permit revision. In order to be consistent with part 70, Ventura was required to revise its rule so that the only changes that may be operated prior to receiving a part 70 permit revision are those modifications subject to section 112(g) and title I, parts C and D of the Act, and those that are not prohibited by the existing part 70 permit. Under part 70, if a proposed change does not meet these criteria, the source may not make the change until the permitting authority has revised the source's part 70 permit. (Reference 40 CFR 70.5(a)(1)(ii)).

District's response to Issue c. The District replaced the last paragraph of its Rule 33.9.A.1 with the following: ''The protection granted by this subsection for a significant part 70 permit modification shall not be applicable unless the modification was subject to section 112(g), or part C or D of title I of the federal Clean Air Act and the existing part 70 permit for the stationary source does not prohibit the modification. If either of these conditions is not met, the modified portion of the stationary source shall not be operated until the modified part 70 permit is issued.''

Issue d. Public notice—VCAPCD needed to revise Rule 33.7 B. to include notice ''by other means if necessary to assure adequate notice to the affected public.'' (Reference: 40 CFR 70.7(h)(1)).

District's response to Issue d. The District added a new section to its Rule 33.7. This new section (33.7.B.2.g) requires the District to provide notice by other means if necessary to assure adequate notice to the affected public.

Issue e. Permit Content—Ventura's permit content requirements are found in Rules 33.3 and 33.9. At the time of interim approval, these regulatory provisions adequately addressed nearly all of the part 70 requirements. Certain elements (e.g., §§ 70.6(a)(3)(ii)(B) and 70.6(a)(6)(i)), are more fully detailed in the General Part 70 Permit conditions, which were submitted in Appendix B.2.b. of Ventura's part 70 program submittal. Ventura needed to establish a binding requirement that the General Part 70 Permit Conditions will be included in all part 70 permits. Ventura could accomplish this by modifying its regulation to reference the general conditions that were submitted and approved by EPA, or by more fully addressing the conditions within the regulation. (Reference: 40 CFR 70.6(a)).

District's response to Issue e. The District significantly revised Sections A and B of its Rule 33.3 to incorporate EPA's requirements. For example, Rule 33.3.A.3 now requires conditions that establish all applicable emissions monitoring and analysis procedures, emissions test methods or continuous monitoring equipment required under all applicable requirements, and related recordkeeping and reporting requirements. It also requires, as necessary, conditions concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods. Further, all applicable recordkeeping and monitoring requirements must include details such as date, place and time of sampling or measurements.

Issue f. Recordkeeping requirements—VCAPCD needed to revise the permit content requirements of Rule 33.3 to provide adequate specificity with regard to the applicable recordkeeping requirements. (Reference: 40 CFR 70.6(a)(3)(C)(ii)).

District's response to Issue f. The District incorporated all of the above requirements in Rule 33.3.A.3. For example, the rule now specifies that permits incorporate all applicable data such as:

- Date, place as defined in the permit, and time of sampling or measurements;
- Date(s) analyses were performed;
- Company or entity that performed the analyses;
- Analytical techniques or methods used;
- Results of such analyses; and
- Operating conditions as existing at the time of sampling or measurements.

Support information includes all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the part 70 permit.

Issue g. Emissions trading under applicable requirements—Ventura County needed to add emissions trading provisions consistent with § 70.6(a)(10), which requires that trading must be allowed where an applicable requirement provides for trading increases and decreases without a case-by-case approval. (Reference 40 CFR 70.6(a)(10)).

District's response to Issue g. The District included EPA's requirement in its Rule 33.3.A.6, which states that: ''Applicable conditions for allowing trading under a voluntary emission cap accepted by the permittee, and for allowing trading under applicable requirements to the extent that such requirements provide for trading emissions without a case by case approval of each trade. Such conditions shall include all terms required under section A of this rule to determine compliance and shall meet all applicable requirements.''

Issue h. Compliance schedule—At the time of interim approval, Rule 33.3 B.2, which requires that a schedule of compliance be included in the permit, did not create an explicit link with Rule 33.9 B.4., which details the contents of a compliance schedule. Thus, VCAPCD needed to revise Rule 33.3's permit content requirements to ensure that all elements of the compliance schedule under § 70.5(c) are incorporated into the permit. (Reference: 40 CFR 70.6(c)(3), 70.6(c)(4)).

District's response to Issue h. The District revised its Rule 33.3 to include EPA's requirements. Rule 33.3.A.8 now requires that if the stationary source is not in compliance with any federally-enforceable requirement, it must have a schedule of compliance that is approved by the District Hearing Board, meets all requirements of Rule 33.2.A.7, and includes a condition that requires submittal of a progress report on the schedule of compliance at least semiannually.

Issue i. EPA notification of operational flexibility changes—Rule 33.5.D needed to be revised to incorporate EPA notification of changes made under the operational flexibility provisions, either by providing for it within the regulation, or by making the general permit conditions, which do specify EPA notification, required elements of each permit. (Reference 40 CFR 70.4(b)(14)(ii)).

District's response to Issue i. The District revised the first paragraph of its Rule 33.4.D to reflect EPA's requirements. The revised paragraph is as follows: ''The owner or operator of any stationary source required to obtain a part 70 permit will be allowed to contravene an express part 70 permit condition with 30 days written notification to both EPA and the District unless the District objects in writing to the change within the 30 day notice period.''

Issue j. State-wide agricultural permitting exemption—one of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA

believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. See letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other Federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

E. What Is Involved in This Proposed Action?

Today, we are proposing to fully approve the District's revised Rule 33 (operating permit program). We have determined that the revisions made by the District remove the deficiencies identified by us in 1995. We will make our final decision on our proposal after considering public comments submitted during the 30-day period from this publication date.

II. Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the District submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

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

provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a 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 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26421 Filed 10–18–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[CA 047–OPP; FRL–7087–4]

Clean Air Act Proposed Full Approval of Operating Permit Program; Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to fully approve the operating permits program submitted by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) based on the revisions submitted on May 9, 2001, which satisfactorily address the program deficiencies identified in EPA's October 6, 1995 Interim Approval Rulemaking. In addition, EPA is proposing to approve, as a Title V operating permit program revision, changes to District Rule 218, Title V: Federal Operating Permits, adopted by MBUAPCD on February 21, 1996 and March 26, 1997. The MBUAPCD operating permit program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to MBUAPCD's operating permit program on October 6, 1995. MBUAPCD revised its program to satisfy the conditions of the interim approval and this action approves those revisions.

DATES: Written comments on today's proposal must be received by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the MBUAPCD submittal, and other supporting documentation relevant to this action, during normal business hours at EPA Region 9, Air Division, 75 Hawthorne Street, San Francisco, California, 94105.

You may also see copies of the submitted Title V program at the following locations:

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

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey CA 93940

A courtesy copy of MBUAPCD's title V rule, Rule 218, may be available via the Internet at *http://www.arb.ca.gov/drdb/mbu/cur.htm.* However, the version of District Rule 218 at the above internet address may be different from the version submitted to EPA for approval. Readers are cautioned to verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval (April 18, 2001). The official submittal is available only at the three addresses listed above.

FOR FURTHER INFORMATION CONTACT: Roger Kohn, EPA Region IX, at (415) 744–1238 or kohn.roger@epa.gov.

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?
Are there other issues with the program?
What are the program changes that EPA is proposing to approve?
What is involved in this proposed action?

What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

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 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct

the deficiencies. Because the MBUAPCD operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on October 6, 1995 (60 FR 52332). The interim approval notice described the conditions that had to be met in order for the MBUAPCD program to receive full approval. Since that time, MBUAPCD has submitted one revision of its interimly approved operating permit program, on May 9, 2001. This **Federal Register** document describes the changes that have been made to the MBUAPCD operating permit program since interim approval was granted.

To solicit citizens comments on the operating permit programs, on December 11, 2000, EPA published a document to announce 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 deficiencies the public claims exist could be either deficiencies in the substance of the approved program or deficiencies in how a permitting authority is implementing its program. Where EPA agrees that there is deficiency, it will publish a notice of deficiency on or before December 1, 2001, and establish a time frame for the permitting authority to take action to correct the deficiency.

Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

EPA received a comment letter from one person on what he believes to be deficiencies with respect to Title V programs in California. EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** document published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

What Are the Program Changes That EPA Is Proposing To Approve?

A. Changes Required to Receive Full Program Approval

B. Other Changes

A. Changes Required To Receive Full Program Approval

As stipulated in the October 6, 1995 rulemaking, full approval of the MBUAPCD operating permit program was made contingent upon correction of deficiencies identified by EPA. MBUAPCD corrected all of these deficiencies in the revised title V program submitted to EPA on May 9, 2001. The corrections consist of the addition of new rule language, the deletion of problematic old rule language, or in one case, a commitment in the May 9, 2001 submittal to revise Rule 218 upon being notified by EPA of an application by an affected tribe for state status. The deficiencies identified by EPA when interim approval of the MBUAPCD title V program was granted, as well as the corrections made by MBUAPCD to address these deficiencies, are summarized below. The Technical Support Document (TSD) in the Docket for this rulemaking contains the full text of EPA's description of each deficiency in the 1995 rulemaking, as well as complete descriptions of how MBUAPCD corrected the deficiencies, including the revised rule language.

(1) Acid rain sources and solid waste incineration units are required to obtain a permit pursuant to section 129(e) of the Act and may not be exempted from the requirement to obtain a title V permit, in accordance with 40 CFR 70.3(b).

MBUAPCD revised Rule 218 so that it no longer exempts these types of sources from the requirement to obtain a title V permit. Under the revised rule, these sources must obtain title V permits even if they otherwise qualify for one of the exemptions listed in Rule 218.

(2) Revise the definition of ''Administrative Permit Amendments.'' 40 CFR 70.7(d)(1)(iii) and 40 CFR 70.7(e)(4)).

MBUAPCD revised this definition, which now states that an administrative amendment ''requires more frequent monitoring or reporting requirements for the stationary source. * * *'' This definition distinguishes administrative amendments from permit modifications that increase monitoring or reporting requirements, which must be processed as significant permit modifications.

(3) Revise the definition of ''Federally Enforceable Requirement'' to be consistent with 40 CFR 70.2.

MBUAPCD revised this definition so that instead of referring to ''District prohibitory rules that are in the State Implementation Plan (SIP),'' it now refers to ''any standard or other requirement provided for in the State Implementation Plan (SIP) approved or promulgated by USEPA.''

(4) Revise of the definition of ''Minor Permit Modification'' to require that a minor permit modification may not establish or change a permit condition used to avoid a federally enforceable requirement to which the source would otherwise be subject, in accordance with 40 CFR 70.7(e)(2)(i)(A)(4).

MBUAPCD revised this definition so that a permit modification that would ''establish or change any permit condition used to avoid a federally enforceable requirement to which the source would otherwise be subject'' cannot be processed as a minor permit modification.

(5) Require the compliance certification within the permit application to indicate the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act, in accordance with 40 CFR 70.5(c)(9)(iv).

MBUAPCD revised the permit application section of Rule 218 to require that permit applications include ''a description of the compliance status of each emissions unit within the stationary source with respect to federally enforceable requirements including any applicable enhanced monitoring and compliance certification requirements of the Act.''

(6) Revise the application compliance certification requirement to be consistent with 40 CFR 70.5(c)(8)(iii)(C).

MBUAPCD has modified Rule 218 by incorporating the exact language of 40 CFR 70.5(c)(8)(iii)(C).

(7) Provide a demonstration that activities that are exempt from title V permitting are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, Rule 218 may restrict the exemptions to activities that are not likely to be subject

to an applicable requirement and emit less than District-established emission levels (40 CFR 70.5(c) and 40 CFR 70.4(b)(2)).

MBUAPCD added a new definition of ''insignificant activity'' to Rule 218 that establishes emission levels that are used to determine whether or not an activity qualifies as insignificant. The emission levels are two tons per year of any criteria pollutant, and the lesser of 1,000 pounds per year, the section 112(g) *de minimis* levels, or other Title I significant modification levels for Hazardous Air Pollutants and other toxics as identified in 40 CFR 52.21(b)(23)(i). EPA and the District agree that an activity that is subject to a source-specific applicable requirement does not qualify as insignificant, even if its emissions are less than the District-established emission levels.

(8) Revise Rule 218 to provide that the APCO shall also give public notice ''by other means if necessary to assure adequate notice to the affected public,'' in accordance with 40 CFR 70.7(h)(1).

MBUAPCD revised Rule 218, which now states that the ''notification shall be published in at least one newspaper of general circulation within the District and by other means if necessary to assure adequate notice to the affected public. * * *''

(9) Revise Rule 218 to include the contents of the public notice as specified by 40 CFR 70.7(h)(2).

MBUAPCD revised Rule 218 to explicitly require that the information required by 40 CFR 70.7(h)(2) be included in each public notice of the District's intent to issue, significantly modify, or renew a permit. This section of part 70 requires that public notices identify specific information, including the affected facility, the name and address of the permittee, the activities involved in the permitting action, and name, address, and telephone number of a person whom citizens may contact for additional information.

(10) Revise Rule 218 to provide that the District shall keep a record of the commenters and of the issues raised during the public participation process so that the Administrator may fulfill her obligation to determine whether a citizen petition may be granted (40 CFR 70.7(h)(5)).

MBUAPCD added new language to Rule 218 that states that the ''APCO shall keep a record of the commenters and of the issues raised during the public participation process so that the Administrator of the USEPA may fulfill their obligation to determine whether a citizen petition may be granted.''

(11) Revise Rule 218 to provide EPA with an additional 45 days to review a permit that the District proposes to issue that has been revised as a result of comments received from the public during concurrent public and EPA review of the proposed permit (40 CFR 70.8(a)(1)).

MBUAPCD added new language to Rule 218 that states that ''If the permit is revised due to comments received from the public, the revised permit will be forwarded to USEPA for an additional 45-day review period.''

(12) Revise Rule 218 to define and provide for giving notice to affected states per 40 CFR 70.2 and 70.8(b). Alternatively, MBUAPCD may make a commitment to: (1) Initiate rule revisions upon being notified by EPA of an application by an affected tribe for state status, and (2) provide affected state notice to tribes upon their filing for state status (i.e., prior to Monterey's adopting affected state notice rules).

MBUAPCD addressed this deficiency by making a formal commitment in its May 9, 2001 submittal of its title V program to EPA to revise Rule 218 upon notification by EPA of an affected state within 50 miles of the District.

(13) Revise Rule 218 to require that permits shall be reopened under specific circumstances as required by 40 CFR 70.7(f).

MBUAPCD revised Rule 218 to require that permits be reopened under specific circumstances described in the Rule, which are based on the requirements in 40 CFR 70.7(f).

(14) Revise Rule 218 to provide, consistent with 40 CFR 70.7(e)(2)(iv), that the District shall take action on a minor permit modification application within 90 days of receipt of the application or 15 days after the end of the 45-day EPA review period, whichever is later.

MBUAPCD revised Rule 218 to incorporate these time frames.

(15) Revise Rule 218 to specify the possible actions that may be taken on a minor permit modification application (40 CFR 70.7(e)(2)(iv)).

MBUAPCD added new language to Rule 218 that describes four possible actions that may be taken on a minor permit modification. The possible actions include issuing the permit modification, denying the application, determining that the application must be processed according to significant modification procedures, or revising the draft permit modification and submitting it to EPA as a proposed permit modification.

(16) The California Legislature must revise state law to eliminate the exemption of agricultural production sources from the requirement to obtain a title V permit.

One of EPA's conditions for full title V program approval was the California Legislature's revision of the Health and Safety Code to eliminate the provision that exempts ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals'' from the requirement to obtain a permit. *See* California Health and Safety Code section 42310(e). Even though the local Districts have, in many cases, removed the title V exemption for agricultural sources from their own rules, the Health and Safety Code has not been revised to eliminate this provision.

In evaluating the impact of the Health and Safety Code exemption, EPA believes there are a couple of key factors to consider. First, many post-harvest activities are not covered by the exemption and, thus, are still subject to title V permitting. For example, according to the California Air Resources Board (CARB), the Health and Safety Code exemption does not include activities such as milling and crushing, or canning or cotton ginning operations. Activities such as these are subject to review under the State's title V programs. *See* letter from Michael P. Kenny, Executive Officer, California Air Resources Board, to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, dated September 19, 2001. In addition, since the granting of interim approval, the EPA has discovered that, in general, there is not a reliable or complete inventory of emissions associated with agricultural operations in California that are subject to the exemption. Although further research on this issue is needed, many sources with activities covered by the exemption may not have emission levels that would subject them to title V, and the State and/or individual Districts may be able to demonstrate that none of the sources that are exempt under the State law are subject to title V.

Based, in part, on these factors, EPA has tentatively concluded that requiring the immediate commencement of title V permitting of the limited types of agricultural activities presently subject to the exemption, without a better understanding of the sources and their emissions, would not be an appropriate utilization of limited local, state and federal resources. As a result, despite the State of California's failure to eliminate the agricultural permitting exemption, EPA is proposing to grant full approval to local Air District operating permit programs and allow a deferral of title V permitting of agricultural operations involved in the growing of crops or the raising of fowl or animals for a further brief period, not to exceed three years. During the

deferral period, we expect to develop the program infrastructure and experience necessary for effective implementation of the title V permitting program to this limited category of sources.

EPA believes it is appropriate to defer permitting for this limited category of agricultural sources because the currently available techniques for determining emissions inventories and for monitoring emissions (e.g., from irrigation pumps and feeding operations) are problematic and will be dramatically enhanced by several efforts currently being undertaken with the cooperation and participation of the operators and agricultural organizations, as well as EPA, other federal agencies, and the State and local air pollution agencies. For example, the National Academy of Sciences is undertaking a study addressing emissions from animal feeding operations. Their report is due next year. In addition, EPA's Office of Air and Radiation is working with the U.S. Department of Agriculture to better address the impact of agricultural operations on air quality. We consider the effort to evaluate the existing science, improve on assessment tools, collect additional data, remove any remaining legal obstacles, and issue any necessary guidance within the three year deferral time frame to be ambitious. We welcome comments on other areas that might also warrant study, as well as ways that this work might be done more quickly.

During the interim deferral period, EPA will continue to work with the agricultural industry and our state and federal regulatory partners to pursue, wherever possible, voluntary emission reduction strategies. At the end of this period, EPA will, taking into consideration the results of these studies, make a determination as to how the title V operating permit program will be implemented for any potential major agricultural stationary sources.

B. Other Changes

MBUAPCD adopted revisions to District Rule 218, Title V: Federal Operating Permits, on February 21, 1996, March 26, 1997, and April 18, 2001. These revisions are unrelated to the rule revisions made to address interim approval deficiencies, which are described in section A above. With two exceptions, EPA is proposing to approve the rule changes made by MBUAPCD in 1996, 1997, and 2001. The changes that we are proposing to approve are summarized below. EPA is not taking action at this time on MBUAPCD's revision of the definition of ''major source'' in Rule 218 and the effective date of revised Rule 218. The reader should refer to the TSD for additional information on the nature of the rule changes EPA is proposing to approve and the basis for EPA's proposed approval, as well as EPA's reasons for not taking action on the definition of ''major source'' and the effective date change. EPA is proposing to approve the following changes to Rule 218:

- Replace the term ''reactive organic compounds'' with ''volatile organic compounds'' (Sections 2.2.4 and 4.3.4) and refer to District Rule 101.
- Delete the definitions for ''halogenated hydrocarbons'' and ''reactive organic compound''.
- Add a permit shield provision. (Section 4.4)

What Is Involved in This Proposed Action?

The EPA proposes full approval of the operating permits program submitted by MBUAPCD based on the revisions submitted on May 9, 2001, which satisfactorily address the program deficiencies identified in EPA's October 6, 1995 Interim Approval Rulemaking. See 60 FR 52332.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the MBUAPCD submittal and other supporting documentation used in developing the proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 19, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve

State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **note**) do not apply.

List of Subjects in 40 CFR Part 70

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

Dated: October 11, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26416 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7514]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

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

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

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
Alabama	Baldwin County (Unincorporated Areas).	Fish River	Approximately 420 feet upstream of Threemile Creek.	•105	•104

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
			At the upstream side of U.S. Route 51 (State Highway 59).	None	•196
		Perone Branch	At confluence with Fish River	•35	•34
			At State Highway 59	None	•145
		Styx River	At confluence with Perdido River	•6	•9
			At Brady Road (Truck Route 17)	None	•77
		Mobile Bay	Approximately 200 feet south of intersection of Fort Morgan Road and Dune Drive.	None	•7
			Approximately 0.6 mile west of the intersection of Main Street and Bel Air Drive.	•17	•19
		Bon Secour Bay	Southeast corner of intersection of Veterans Road and State Route 180.	•10	•9
			Approximately 300 feet west of the intersection of Bay Road North and Beach Road.	•13	•15
		Gulf of Mexico	At intersection of Ono Boulevard and Pompano Key Drive.	None	•7
			Approximately 500 feet south of the intersection of Ponce de Leon Court and Choctow Road.	•12	•15
		Perdido Bay	Approximately 250 feet northwest of the intersection of Magnolia Street and Mobile Avenue.	None	•4
			Approximately 1.1 miles east of the intersection of Boykin Boulevard and Azalea Street.	•8	•9
		Wolf Bay	Approximately 500 feet south of the intersection of State Route 95 and East Quarry Drive.	None	•5
			Approximately 0.9 mile north of the intersection of Gulf Bay Road and Wolf Bay Terrace.	•8	•9
		Weeks Bay	Approximately 1,000 feet south of intersection of Yupon Lane and Gavin Lane.	•10	•11
			Approximately 500 feet west of intersection of Yupon Lane and Gavin Lane.	•12	•11
		Oyster Bay	Approximately 2,750 feet north of intersection of Old Fort Morgan Trail.	None	•10
			Approximately 0.6 mile north of intersection of Quail Run and Oyster Bay Lane.	•10	•14
Maps available for inspection at the Baldwin County Building Department, 201 East Section Street, Bay Minette, Alabama.					
Send comments to Mr. Joe Faust, Chairman of the Baldwin County Commission, P.O. Box 1488, Bay Minette, Alabama 36507.					
Alabama	Elmore County (Unincorporated Areas).	Tributary to Mill Creek	At a point approximately 1,000 feet upstream of the confluence with Mill Creek.	None	•204
			At a point approximately 2,500 feet upstream of the confluence with Mill Creek.	None	•214
		Alabama River	Approximately 950 feet downstream of Interstate 31.	None	•161
			Approximately 3,700 feet downstream of the confluence of Tallapoosa River.	None	•168
		Tallapoosa River	Approximately 3.3 miles River upstream of the confluence of Gravel Pit Creek.	None	•169
			Approximately 4.6 miles downstream of the confluence of Chubbehatchee Creek.	None	•176
Maps available for inspection at the Office of the Elmore County Engineer, 155 County Shop Road, Wetumpka, Alabama.					
Send comments to Mr. Don Whorton, Chairman of the Board of Elmore County Commissioners, 100 Commerce Street, Room 207, Wetumpka, Alabama 36092.					
Connecticut	Enfield (Town), Hartford County.	Waterworks Brook	Approximately 140 feet downstream of breached dam.	*55	*54
			Approximately 500 feet upstream of Elm Avenue.	*121	*124

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
		Terry Brook	At the confluence with the Scantic River	None	*117
			Approximately 250 feet upstream of Somers Road.	None	*204
Maps available for inspection at the Enfield Town Engineer's Office, 820 Enfield Street, Enfield, Connecticut.					
Send comments to Mr. Scott Shanley, Enfield Town Manager, 820 Enfield Street, Enfield, Connecticut 06082–2997.					
Connecticut	Marlborough (Town), Hartford County.	Blackledge River	Approximately 2,620 feet upstream of West Road.	*351	*352
			Approximately 550 feet upstream of Jones Hollow Bridge.	None	*384
		Fawn Brook	Approximately 210 feet upstream of South Main Street.	*179	*180
			Approximately 2,925 feet upstream of South Main Street.	None	*193
		Unnamed Tributary of Dickinson Creek.	At confluence with Dickinson Creek	None	*419
			A point approximately 660 feet upstream of State Route 2.	None	*423
Maps available for inspection at the Marlborough Town Planner's Office, Town Hall, 26 North Main Street, Marlborough, Connecticut.					
Send comments to Mr. Howard Dean, Jr., Town of Marlborough First Selectman, Town Hall, 26 North Main Street, P.O. Box 29, Marlborough, Connecticut 06447.					
Florida	Daytona Beach (City) Volusia County.	Eleventh Street Canal	At confluence with Tomoka River	*15	*16
			Approximately 2,810 feet upstream of Clyde Morris Boulevard North.	None	*26
		Eleventh Street Canal Tributary No. 2.	At confluence with Eleventh Street	*27	*26
			Approximately 2,800 feet 2 upstream of LPGA Boulevard.	*28	*26
			Just upstream of Clyde Morris Boulevard North.	*28	*26
			At confluence of Eleventh Street Canal Tributary No. 2A.	*28	*26
		Eleventh Street Canal Tributary No. 2A.	At confluence with Eleventh Street Canal Tributary No. 2.	*28	*26
			Approximately 2,600 feet upstream of confluence with Eleventh Street Canal Tributary No. 2.	*29	*26
		Shooting Range Canal	At confluence with Tomoka River	*12	*13
			At a point just upstream of Clyde Morris Boulevard North.	*28	*26
Maps available for inspection at the City of Daytona Beach Public Works Complex, Engineering Department, 950 Bellevue Avenue, Daytona Beach, Florida.					
Send comments to Mr. Carey F. Smith, Daytona Beach City Manager, P.O. Box 2451, Daytona Beach, Florida 32115.					
Florida	Ormond Beach (City), Volusia County.	Eleventh Street Canal Tributary No. 2.	At confluence with Eleventh	*27	*26
			Approximately 2,800 feet 2 upstream of LPGA Boulevard.	*28	*26
			Just upstream of Clyde Morris Boulevard North.	*28	*26
			At confluence of Eleventh Street Canal Tributary No. 2A.	*28	*26
		Eleventh Street Canal Tributary No. 2A.	At confluence with Eleventh Street Canal Tributary No. 2.	*28	*26
			Approximately 2,600 feet upstream of confluence with Eleventh Street Canal Tributary No. 2.	*29	*26
Maps available for inspection at the City of Ormond Beach Planning Department, Room 104, 22 South Beach Street, Ormond Beach, Florida.					
Send comments to Mr. Ted MacLeod, City of Ormond Beach Interim Manager, P.O. Box 277, Ormond Beach, Florida 32175–0277.					
Florida	Volusia County (Unincorporated Areas).	Eleventh Street Canal Tributary No. 2.	At confluence with Eleventh Street	*27	*26

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
			Approximately 2,800 feet upstream of LPGA Boulevard.	*28	*26
			Just upstream of Clyde Morris Boulevard North At confluence of Eleventh Street Canal Tributary No. 2A.	*28	*26
		Eleventh Street Canal Tributary No. 2A.	At confluence with Eleventh Street Canal Tributary No. 2.	*28	*26
			Approximately 2,600 feet upstream of confluence with Eleventh Street Canal Tributary No. 2.	*29	*26
		Shooting Range Canal	At confluence with Tomoka River	*12	*13
			At a point just upstream of Clyde Morris Boulevard North.	*28	*26
Maps available for inspection at the Volusia County Emergency Operations Center, 49 Keyton Drive, Daytona, Florida. Send comments to Ms. Cynthia Coto, Volusia County Manager, 123 West Indiana Avenue, Deland, Florida 32720–4612.					
Florida	Jupiter Island (Town), Martin County.	Atlantic Ocean	Approximately 0.94 mile east of intersection of Suddard Drive and Williams Drive.	*10	*13
			Approximately 1.32 miles north-northwest of intersection of Beach Road and Harmony Avenue.	*10	*6
Maps available for inspection at the Jupiter Town Hall, Building Department, 103 Bunker Hill Road, Hobe Sound, Florida. Send comments to Mr. James R. Spurgeon, Jupiter Island Town Manager, P.O. Box 7, Hobe Sound, Florida 33475–0007.					
Florida	Martin County (Unincorporated Areas).	Bessey Creek	Approximately 1,100 feet downstream of Andrews Drive.	*7	*8
			At 84th Avenue	None	*26
		Danforth Creek	At Martin Downs Boulevard	*7	*8
			Approxiamtely 1,600 feet upstream of State Route 76A.	None	*23
		South Fork St. Lucie River	Approximately 2.1 miles upstream of State Route 76.	*7	*8
			Approximately 4.9 miles upstream of State Route 76.	None	*10
		Roebuck Creek	Approximately 700 feet downstream of Buckskin Trail.	*7	*8
			Approximately 0.78 mile upstream of State Route 76A.	None	*19
		Manatee Creek	At State Route A1A	*8	*9
			Approximately 1,800 feet upstream of Twin Lakes Drive.	None	*15
		East Fork Creek	Approxiamtely 400 feet upstream of Cove Road.	*8	*9
			Approximately 100 feet upstream of Mariner Sands Drive.	None	*15
		Atlantic Ocean	Approximately 600 feet east of the intersection of A1A and 42nd Street.	*9	*14
			Approximately 1.1 miles northeast of intersection of Golfhouse Drive and Hill Terrace.	*10	*6
Maps available for inspection at the Martin County Engineer's Office, 2401 South East Monterey Road, Stuart, Florida. Send comments to Mr. Russ Blackburn, Martin County Administrator, 2401 South East Monterey Road, Stuart, Florida 34996.					
Georgia	White County (Unincorporated Areas).	Blue Creek	Approximately 300 feet upstream of the confluence with Chattahoochee River.	None	*1,268
			Approximately 2.5 miles upstream of Duncan Bridge Road.	None	*1,372
		Brasstown Creek	Approximately 800 feet upstream of the confluence with Chattahoochee River.	None	*1,271
			Approximately 3.2 miles upstream of Roy Powers Road.	None	*1,391
		Brasstown Creek Tributary No. 1.	At confluence with Brasstown Creek	None	*1,322
			Approximately 1.3 miles upstream of the confluence with Brasstown Creek.	None	*1,386

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
		Brasstown Creek Tributary No. 2.	At the confluence with Brasstown Creek	None	*1,341
			Approximately 0.9 mile upstream of the confluence with Brasstown Creek.	None	*1,394
		White Creek	Approximately 200 feet upstream of the confluence with Chattahoochee River.	None	*1,133
			At State Route 254	None	*1,317
		Chattahoochee	Approximately 1.7 miles downstream of State Route 75.	None	*1,390
			Approximately 1.5 miles downstream of State Route.	None	*1,394
Maps available for inspection at the White County Planning Commission Director's Office, 59 South Main Street, Cleveland, Georgia. Send comments to Mr. Paul Bryan, White County Manager, 59 South Main Street, Cleveland, Georgia 30528.					
Illinois	Elburn (Village), Kane County.	Blackberry Creek	At the confluence of Blackberry Creek Tributary D.	None	*741
			Approximately 1,050 feet upstream of Hughes Road.	None	*747
		Blackberry Creek Tributary D.	Approximately 600 feet upstream of confluence with Blackberry Creek.	None	*742
			Approximately 2,550 fee downstream of Keslinger Road.	None	*799
Maps available for inspection at the Elburn Village Hall, 301 East North Street, Elburn, Illinois. Send comments to Mr. James Willey, President of the Village of Elburn Board of Trustees, 301 East North Street, Elburn, Illinois 60119.					
Illinois	Elgin (City), Kane County.	Sandy Creek	At Randall Road	*821	*826
			Approximately 325 feet upstream of Randall Road.	None	*826
		Tyler Creek	Approximately 500 feet upstream of confluence with Fox River.	*716	*715
			Approximately 120 feet downstream of Soo Line Railroad.	None	*839
Maps available for inspection at City of Elgin Public Works Department, Engineering Division, 150 Dexter Court, Elgin, Illinois. Send comments to Ms. Joyce Parker, Elgin City Manager, 150 Dexter Court, Elgin, Illinois 60120.					
Illinois	Gilberts (Village) Kane County.	Tyler Creek	Just upstream of Big Timber Road	None	*867
			Approximately 200 feet downstream of McCornack Road.	None	*886
Maps available for inspection at the Gilberts Village Hall, 86 Railroad Street, Gilberts, Illinois. Send comments to Mr. Mike Isitoro, Gilberts Village President, 86 Railroad Street, Gilberts, Illinois 60136.					
Illinois	Kane County (Unincorporated Areas).	Blackberry Creek Tributary F.	Approximately 0.6 mile upstream of confluence with Blackberry Creek Tributary B.	*704	*703
			Approximately 250 feet downstream of Bliss Road.	*728	*727
		Main Street Ditch	At confluence with Blackberry Creek Tributary F.	None	*707
			Approximately 150 feet upstream of Main Street.	None	*709
		Tyler Creek	Approximately 375 downstream of Eagle Road East.	*791	*793
			Approximately 200 feet upstream of Illinois Route 72.	None	*898
		Pingree Creek	At confluence with Tyler Creek	None	*893
			Approximately 325 feet upstream of U.S. Route 20.	None	*906
		Mastadon Lake	Approximately 300 feet southeast of the intersection of Parker Avenue and Hinman Street.	None	*662
		Sandy Creek	Approximately 130 feet downstream of Randall Road.	*820	*821
			Just downstream of U.S. Route 20	None	*889
		Indian Creek	Approximately 0.41 mile upstream of Wood Street.	None	*676
			At downstream side of East-West Tollway	None	*717

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
		Indian Creek Tributary B ..	Approximately 0.61 mile upstream of confluence with Indian Creek.	None	*716
			Approximately 0.86 mile upstream of confluence with Indian Creek.	None	*716
		South Tributary	At confluence with Indian Creek	None	*684
			Approximately 680 feet upstream of confluence with Indian Creek.	None	*688
		Welch Creek	Approximately 1,110 feet downstream of Fay's Lane.	None	*680
			Just upstream of Burlington Northern Railroad.	None	*692
		Welch Creek Tributary 1 ..	Just upstream of Aurora Municipal Airport	None	*693
			Approximately 2,600 feet upstream of Aurora Municipal Airport.	None	*694
		Blackberry Creek Tributary H.	Approximately 750 feet southwest of Lake View Court and Lake View Drive intersection.	None	*670
		Selmarten Creek	At confluence with Indian Creek	*715	*716
			At county boundary	*718	*720
Maps available for inspection at the Kane County Water Resources Department, Kane County Government Center Building ''A,'' 719 Batavia Avenue, Geneva, Illinois.					
Send comments to Mr. Michael W. McCoy, Chairman of the Kane County Board of Commissioners, 719 Batavia Avenue, Geneva, Illinois 60134.					
Illinois	Kendall County (Unincorporated Areas).	Harvey Creek	From county boundary	None	*638
			At approximately 775 feet upstream of confluence with Little Rock Creek.	None	*617
Maps available for inspection at the Kendall County Planning and Zoning Department, 111 West Fox Street, Yorkville, Illinois.					
Send comments to Mr. John Church, Chairman of the Kendall County Board, 111 West Fox Street, Yorkville, Illinois 60560.					
Illinois	Lily Lake (Village), Kane County.	Ferson Creek	Approximately 100 feet downstream of Great Western Trail Railroad.	None	*802
			Just downstream of Route 64	None	*872
Maps available for inspection at the Lily Lake Village Hall, 43W680 Empire Road, St. Charles, Illinois.					
Send comments to Mr. Glenn Bork, Lily Lake Village President, 44W508 I.C. Trail, Lily Lake, Illinois 60151.					
Illinois	Montgomery (Village), Kane County.	Blackberry Creek Tributary G.	Approximately 2,050 feet downstream of Aucutt Road.	None	*661
			Approximately 550 feet downstream of Jericho Road.	None	*666
		Blackberry Creek	Approximately 0.4 mile downstream of Jericho Road.	None	*664
			At Jericho Road	None	*666
Maps available for inspection at the Montgomery Village Clerk's Office, 1300 South Broadway, Montgomery, Illinois.					
Send comments to Ms. Marilyn Michelini, Montgomery Village President, 1300 South Broadway, Montgomery, Illinois 60538.					
Illinois	Newark (Village), Kendall County.	Dave-Bob Creek	Approximately 175 feet upstream of confluence with Clear Creek.	None	*620
			Approximately 560 feet upstream of Chicago Road.	None	*663
Maps available for inspection at the Village of Newark Building Department, 101 West Lions Street, Newark, Illinois.					
Send comments to Mr. Roger Ness, Village President, P.O. Box 445, Newark, Illinois 60541–0001.					
Illinois	Pingree Grove (Village), Kane County.	Pingree Creek	Approximately 1,000 feet upstream of Highland Avenue.	None	*901
			Approximately 800 feet upstream of Soo Line Railroad.	None	*902
Maps available for inspection at the Pingree Grove Village Hall, 14N042 Reinking Road, Hampshire, Illinois.					
Send comments to Mr. Vern Wester, President of the Village of Pingree Grove Board, 14N042 Reinking Road, Hampshire, Illinois 60140.					
Illinois	Sandwich (City), DeKalb County.	Harvey Creek	Approximately 775 feet upstream of Little Rock Creek.	None	*617
			At Dayton Street	None	*640

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
Maps available for inspection at the City Engineering Office, 144 East Railroad Street, Sandwich, Illinois. Send comments to Mr. Tom Thomas, Mayor of the City of Sandwich, 144 East Railroad Street, Sandwich, Illinois 60548.					
Illinois	Sugar Grove (Village), Kane County.	Blackberry Creek	Approximately 1,050 feet upstream of Densmore Road.	None	*678
			Approximately 1,800 feet upstream of Bliss Road.	None	*690
		Blackberry Creek	At confluence with Blackberry Creek	None	*680
		Tributary E	At Mankes Road	None	*680
Maps available for inspection at the Sugar Grove Village Office, 10 Municipal Drive, Sugar Grove, Illinois. Send comments to Mr. P. Sean Michels, Sugar Grove Village President, 10 Municipal Drive, Sugar Grove, Illinois 60554.					
Maine	Lebanon (Town), York County.	Salmon Falls River	At downstream corporate limits	None	*190
			At upstream corporate limits	None	*421
Maps available for inspection at the Lebanon Code Enforcement Office, 655 Upper Guinea Road, Lebanon, Maine. Send comments to Mr. Gilber Zinck, Chairman of the Town of Lebanon Selectmen, P.O. Box 339, Lebanon, Maine 04027.					
Maine	Princeton (Town), Washington County.	Grand Falls Flowage	Entire shoreline within the Town of Princeton.	None	*204
		Lewy Lake	Entire shoreline within the Town of Princeton.	None	*204
		Long Lake	Entire shoreline within the Town of Princeton.	None	*204
Maps available for inspection at the Princeton Town Office, 15 Depot Street, Princeton, Maine. Send comments to Mr. Greg Monk, Chairman of the Town of Princeton Board of Selectmen, P.O. Box 408, Princeton, Maine 04668.					
New Hampshire	Nashua (City), Hillsborough County.	Nashua River	At the downstream side of B&M Railroad bridge.	*115	*114
			Approximately 0.75 mile upstream of State Route 111.	*177	*176
		Bartemus Brook	At confluence with Nashua River	*167	*165
			At upstream corporate limits	*168	*166
		Lyle Reed Brook	At confluence with Nashua River	*169	*167
			Approximately 0.75 mile upstream of State Route 11.	*169	*167
Maps available for inspection at the Nashua City Hall, 229 Main Street, Nashua, New Hampshire. Send comments to The Honorable Bernard A. Streeter, Mayor of the City of Nashua, City Hall, 229 Main Street, Nashua, New Hampshire 03061–2019.					
New Jersey	Deal (Borough), Monmouth County.	Poplar Brook	Approximately 20 feet upstream of New York and Long Branch Railroad.	*15	*29
			Approximately 480 feet downstream of Ocean Avenue.	*10	*11
Maps available for inspection at the Deal Borough Municipal Building, Durant Square, Deal, New Jersey. Send comments to Mr. James Rogers, Borough of Deal Clerk and Administrator, Municipal Building, Durant Square, Deal, New Jersey 07723.					
New York	Angola (Village), Erie County.	Big Sister Creek	Upstream corporate limits	None	*622
			Downstream corporate limits	None	*644
		Unnamed Tributary to Big Sister Creek.	At confluence with Big Sister Creek	None	*643
			Approximately 750 feet upstream of confluence with Big Sister Creek.	None	*643
Maps available for inspection at the Angola Village Office, 41 Commercial Street, Angola, New York. Send comments to The Honorable Jim Carlson, Mayor of the Village of Angola, 41 Commercial Street, Angola, New York 14006.					
New York	East Aurora (Village), Erie County.	Tannery Brook	At the confluence of East Branch Cazenovia Creek.	*867	*866
			Approximately 710 feet upstream of Brooklea Drive.	*943	*944

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
Maps available for inspection at the East Aurora Village Hall, 571 Main Street, East Aurora, New York.					
Send comments to The Honorable John V. Pagliaccio, Mayor of the Village of East Aurora, 571 Main Street, East Aurora, New York 14052.					
New York	Fort Plain (Village), Montgomery County.	Otsquago Creek	Approximately 540 feet upstream of the confluence with the Mohawk River.	*305	*306
			Approximately 50 feet upstream of State Route 80.	*335	*336
Maps available for inspection at the Fort Plain Village Hall, 168 Canal Street, Fort Plain, New York.					
Send comments to The Honorable Thomas L. Quackenbush, Mayor of the Village of Fort Plain, Fort Plain Village Hall, 168 Canal Street, Fort Plain, New York 13339.					
New York	Herkimer (Village), Herkimer County.	West Canada Creek	Approximately 600 feet downstream of East State Street (State Route 5).	*388	*387
			At the upstream corporate limits with the Town of Herkimer (approximately 1.36 miles upstream of East State Street).	*414	*413
Maps available for inspection at the Herkimer Village Municipal Hall, 120 Green Street, Herkimer, New York.					
Send comments to Mr. Jams Franco, Herkimer County Department of Public Works, South Washington Street, Herkimer, New York 13350.					
New York	Jay (Town), Essex County.	East Branch Ausable River.	At the confluence with Ausable River	*551	*550
			At the upstream corporate limits (approximately 2.24 miles upstream of NYS Route 9N).	None	*724
		Ausable River	At the downstream corporate limits	None	*491
			At the confluence of East and West Branches of Ausable River.	*551	*550
		Tributary to East Branch Ausable River.	At the confluence with East Branch Ausable River.	None	*589
			At NYS Route 9R	None	*765
		West Branch Ausable River	At the confluence with the Ausable	*551	*550
			River and East Branch Ausable River Approximately 250 feet upstream of the confluence with the Ausable River.	*553	*552
Maps available for inspection at the Jay Town Hall, School Street, Ausable Forks, New York.					
Send comments to Mr. Thomas O'Neill, Jay Town Supervisor, P.O. Box 730, Ausable Forks, New York 12912.					
New York	Lisle (Town), Broome County.	Dudley Creek	Approximately 650 feet downstream of Owen Hill Road.	None	*1,044
			At Popple Hill Road	None	*1,097
		Culver Creek	At the confluence with Dudley Creek	None	*1,075
			At Hunts Corners Road	None	*1,106
		Tioughnioga River	Approximately 3.12 miles downstream of Main Street.	None	*979
			A point approximately 1.19 miles upstream of Main Street.	None	*1,003
Maps available for inspection at the Lisle Town Office, 9234 NYS Route 79, Lisle, New York.					
Send comments to Mr. James C. Dunham, Lisle Town Supervisor, P.O. Box 98, Lisle, New York 13797.					
New York	Tusten (Town), Sullivan County.	Delaware River	At the corporate limits	None	*629
			Approximately 2.03 miles downstream of the CONRAIL bridge.	None	*665
Maps available for inspection at the Tusten Town Hall, 210 Bridge Street, Narrowsburg, New York.					
Send comments to Mr. Richard Crandell, Tusten Town Supervisor, P.O. Box 195, Narrowsburg, New York 12764.					
Virginia	Franklin (City), Independent City.	Blackwater River	At downstream corporate limits	None	*17
			At upstream corporate limits	*18	*22
Maps available for inspection at Franklin City Office, 207 West Second Avenue, Franklin, Virginia.					
Send comments to The Honorable James P. Councill, III, Mayor of the City of Franklin, 207 West Second Avenue, Franklin, Virginia 23851.					
Virginia	Isle of Wight County (Unincorporated Areas).	Blackwater River	Approximately 3.7 miles downstream of CSX Transportation.	None	*16

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (*NGVD) (•NAVD)	
				Existing	Modified
			Approximately 1.3 miles upstream of Broadwater Road (State Route 629).	*33	*36
Maps available for inspection at the Isle of Wight County Administrator's Office, 17130 Monument Circle, Suite A, Isle of Wight, Virginia.					
Send comments to Mr. W. Douglas Caskey, Isle of Wight County Administrator, P.O. Box 80, Isle of Wight, Virginia 23397.					
Virginia	Monterey (Town) Highland County.	West Strait	Approximately 650 feet downstream of U.S. Route 220.	*2,849	*2,853
			Approximately 630 feet upstream of the west stream crossing of Mill Alley.	*2,965	*2,967
Maps available for inspection at the Monterey Building and Zoning Department, Main Street, Monterey, Virginia.					
Send comments to The Honorable Janice Warner, Mayor of the Town of Monterey, P.O. Box 26, Monterey, Virginia 24465.					
Virginia	Suffolk (City), Independent City.	Blackwater	At downstream corporate limits	None	*15
			At upstream corporate limits	None	*16
Maps available for inspection at the Suffolk City Manager's Office, 441 Market Street, Suffolk, Virginia.					
Send comments to The Honorable Curtis R. Milteer, Sr., Mayor of the City of Suffolk, P.O. Box 1858, Suffolk, Virginia 23439.					
Vermont	Hardwick (Town/Village), Caledonia County.	Lamoille River Divergence	Approximately 460 feet upstream of the confluence with Lamoille River.	*793	*794
			At the divergence from Lamoille River	*805	*804
Maps available for inspection at the Hardwick Town Hall, 20 Church Street, Hardwick, Vermont.					
Send comments to Mr. Daniel P. Hill, Hardwick Town/Village Manager, P.O. Box 523, 20 Church Street, Hardwick, Vermont 05843.					
West Virginia	Berkeley County (Unincorporated Areas).	Evans Run	A point approximately 300 feet downstream of U.S. Route 11.	*489	*488
			A point approximately 300 feet downstream of State Route 45.	*558	*556
Maps available for inspection at the Berkeley County Planning Commission, 119 West King Street, Martinsburg, West Virginia.					
Send comments to Mr. Howard Strauss, President of the Berkeley County Board of Commissioners, 126 West King Street, Martinsburg, West Virginia 25401.					

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

Dated: October 9, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–26427 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–P–7601]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

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

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Acting Administrator for Federal Insurance and Mitigation Administration certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

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

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet. •(NAVD)	
				Existing	Modified
AR	Patterson, City of Woodruff County.	Cache River	U.S. Highway 64 Bridge (COE Gage)	NONE	*197
Maps are available for inspection at City Hall, 123 South Main, Patterson, Arkansas.					
Send comments to the Honorable Charles Dallas, Mayor, City of Patterson, 123 South Main, Patterson, Arkansas 72123.					
IA	Council Bluffs, City of Pottawattamie County.	Indian Creek	At approximately 1600 feet downstream of U.S. Highway 275.	976	977
			At approximately 100 feet downstream of Frank Street.	1026	1023
Maps are available for inspection at the Building Division, City Hall, 209 Pearl Street, Room 207, Council Bluffs, Iowa.					
Send comments to the Honorable Thomas P. Hanafan, Mayor, City of Council Bluffs, City Hall, 209 Pearl Street, Council Bluffs, Iowa 51503					

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

Dated: October 3, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–26428 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[IB Docket No. 01–185, ET Docket No. 95–18, DA #01–2314]

Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz band, the L-Band, and the 1.6/2.4 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In this document, the Commission extends the period for comment and reply comment in the proceeding that it initiated to explore proposals to bring flexibility to the delivery of communications by Mobile Satellite Service (''MSS'') providers. The Commission extends the period for comment at the request of the Cellular Telecommunications & Internet Association (CTIA) in order to allow sufficient time to establish the most complete and well-developed record possible on which to base a decision.

DATES: Comments are due October 19, 2001, and Reply Comments are due November 5, 2001.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Breck Blalock, 202–418–8191.

SUPPLEMENTARY INFORMATION: This is a summary of the Order Extending Comment Period in IB Docket No. 01–185, ET Docket No. 95–18, DA 01–2314, adopted October 4, 2001. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC 20554 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.

1. The Commission extends the comment period deadlines established in the Notice of Proposed Rulemaking in this proceeding (66 FR 47621, September 13, 2001) from October 11, 2001 to October 19, 2001, and the reply comment period from October 25, 2001 to November 5, 2001.

Ordering Clause

2. The request of CTIA to extend the deadline for filing comments in this proceeding, filed September 25, 2001, is granted to the extent indicated, pursuant to § 1.46 of the Commission's Rules, 47 CFR 1.46.

Federal Communications Commission.

John V. Giusti,

Chief, International Spectrum and Communications Policy Branch.

[FR Doc. 01–26508 Filed 10–17–01; 12:58 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–2319, MM Docket No. 01–279, RM–10290]

Radio Broadcasting Services; Rocksprings, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Linda Crawford proposing the allotment of Channel 235C3 at Rocksprings, Texas. The coordinates for Channel 235C3 at Rocksprings are 30–07–06 and 100–19–18. There is a site restriction 16 kilometers (9.9 miles) northwest of the community. Since Rocksprings is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government will be requested for the allotment at Rocksprings.

DATES: Comments must be filed on or before November 26, 2001, and reply comments on or before December 11, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, S.W., Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Linda Crawford, 3500 Maple Avenue, No. 1320, Dallas, Texas 75219.

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. 01–279, adopted September 26, 2001, and released October 5, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* 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 Channel 235C3 at Rocksprings.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–26373 Filed 10–18–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2320; MM Docket No. 01–281; RM–10287]

Radio Broadcasting Services; Washington and Watkinsville, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Southern Broadcasting Companies, Inc., licensee of Station WXKT (FM), Channel 261A, Washington, Georgia, requesting the reallotment of Channel 261A from Washington to Watkinsville, Georgia, and modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. The coordinates for requested Channel 261A at Watkinsville, Georgia, are 33–52–19 and 83–15–19.

Petitioner's reallotment proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 261A at Watkinsville, Georgia, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before November 26, 2001, and reply comments on or before December 11, 2001.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Gary S. Smithwick, Esq., Smithwick & Belendiuk, P.C.; 5028 Wisconsin Avenue, NW., Suite 301; Washington, DC 20016.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–281 adopted September 26, 2001, and released October 5, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, 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.*

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this

one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Watkinsville, Channel 261A, and removing Washington, Channel 261A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–26374 Filed 10–18–01; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

RIN 3090–AH01

General Services Administration Acquisition Regulation; Acquisition of Leasehold Interests in Real Property; Historic Preference

AGENCY: General Services Administration (GSA), Office of Acquisition Policy.

ACTION: Proposed rule.

SUMMARY: The General Services Administration amends the GSA Acquisition Regulation (GSAR) by revising the provision on Historic Preference.

DATES: Interested parties should submit comments in writing on or before December 18, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, Office of Acquisition Policy, 1800 F Street, NW., Room 4035, ATTN: Michael Hopkins, Washington, DC 20405. Please submit comments only.

FOR FURTHER INFORMATION CONTACT: For information pertaining to status or publication schedules contact Mr. Hopkins at (202) 501–1448. For clarification of content, contact Ms. Julia Wise, Procurement Analyst, at (202) 208–1168.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order (EO) 13006, dated May 21, 1996, requires that the Federal Government utilize and maintain, wherever operationally appropriate and economically prudent, historic properties and districts, in order to help revitalize the nation's central cities. The EO requires that, subject to the requirements of the Rural Development Act and EO 12072, when locating Federal facilities, Federal agencies give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies must consider other developed or undeveloped sites within historic districts. Federal agencies must then consider historic properties outside historic districts, if no suitable site within a district exists. Based on the requirements of EO 13006, the GSAR provision has been revised to establish a hierarchy of consideration that is facilitated by giving a price evaluation preference to offers of space falling within the hierarchy.

A proposed rule implementing a historic preference provision for leasehold interests in real property was published in the **Federal Register** for comments on June 30, 1999. GSA received comments and the proposed rule has been revised. Because numerous changes have been made to the proposed historic preference provision, GSA is publishing it again as a proposed rule.

The comments received by GSA and the changes made to the historic preference provision are summarized as follows. The Advisory Council on Historic Preservation recommended that the definitions of historic property and historic district be made consistent with other existing regulations and statutory definitions and that the hierarchical preferences be stated more clearly. The proposed historic preference provision has been revised to incorporate appropriate definitions from the National Historic Preservation Act and implementing regulations in Title 36 of the Code of Federal Regulations, and to clarify how the historic preference will be applied.

GSA also considered whether the price preference for non-historic developed and undeveloped sites within historic districts should be less than the price preference for historic properties within and outside of historic districts. GSA believed that this would more appropriately reflect the relatively higher cost of rehabilitating, altering, and maintaining existing historic buildings as opposed to constructing and maintaining new buildings or altering existing non-historic buildings within a historic district. Accordingly, the historic preference provision has been revised to provide that historic properties within and outside of historic districts may be eligible for a 10 percent price preference; non-historic developed and undeveloped sites within historic districts may be eligible for a 2.5 percent price preference.

Finally, the provision has been revised to state that the Government will compute the price evaluation preferences by reducing the price(s) of the offerors qualifying for a price evaluation preference by the applicable percentage provided in the historic preference provision.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* , because the rule implements an existing Executive Order (EO) and does not impose any new requirements. This rule requires the Federal Government to utilize and maintain historic properties and districts, wherever possible, to aid in the revitalization of the nation's central cities. This rule establishes a price evaluation preference and order preference for properties in these specific areas.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C.3501 *et seq.*

List of Subjects in 48 CFR Part 552

Government procurement.

Accordingly, it is proposed that 48 CFR part 552 be amended as follows:

1. The authority citation for part 552 continues to read as follows:

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

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 552.270–2 is revised to read as follows:

552.270–2 Historic Preference.

As prescribed in 570.602, insert the following provision:

Historic Preference October 2001

(a) The Government will give preference to offers of space in historic properties following this hierarchy of consideration:

(1) Historic properties within historic districts.

(2) Non-historic developed and non-historic undeveloped sites within historic districts.

(3) Historic properties outside of historic districts.

(b) Definitions. (1) *Determination of eligibility* means a decision by the Department of the Interior that a district, site, building, structure or object meets the National Register criteria for evaluation although the property is not formally listed in the National Register. (36 CFR 60.3(c))

(2) *Historic district* means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. (36 CFR 60.3(d)) The historic district must be included in or be determined eligible for inclusion in the National Register of Historic Places.

(3) *Historic property* means any pre-historic or historic district, site, building, structure, or object included in or been determined eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior. (36 CFR 800.16(l))

(4) *National Register of Historic Places* means the National Register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture that the Secretary of the Interior is authorized to expand and maintain under the National Historic Preservation Act. (36 CFR 60.1)

(c) The offer of space must meet the terms and conditions of this solicitation. The Contracting Officer has discretion to accept alternatives to certain architectural characteristics and safety features defined elsewhere in this solicitation to maintain the historical integrity of an historic building, such as high ceilings and wooden floors, or to maintain the integrity of an historic district, such as setbacks, floor-to-ceiling heights, and location and appearance of parking.

(d) When award will be based on the lowest price technically acceptable source selection process, the Government will give a price evaluation preference, based on the total annual square foot (ANSI/BOMA Office Area) cost to the Government, to historic properties as follows:

(1) First to suitable historic properties within historic districts, a 10 percent price preference.

(2) If no suitable historic property within an historic district is offered, or the 10 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(3) If no suitable non-historic developed or undeveloped site within an historic district is offered, or the 2.5 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(4) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

(e) When award will be based on the best value tradeoff source selection process, which permits tradeoffs among price and non-price factors, the Government will give a price evaluation preference, based on the total annual square foot (ANSI/BOMA Office Area) cost to the Government, to historic properties as follows:

(1) First to suitable historic properties within historic districts, a 10 percent price preference.

(2) If no suitable historic property within a historic district is offered or remains in the competition, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(3) If no suitable non-historic developed or undeveloped site within an historic district is offered or remains in the competition, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(4) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

(f) The Government will compute price evaluation preferences by reducing the price(s) of the offerors qualifying for a price evaluation preference by the applicable percentage provided in this provision. The price evaluation preference will be used for price evaluation purposes only. The Government will award a contract in the amount of the actual price(s) proposed by the successful offeror and accepted by the Government.

(g) To qualify for a price evaluation preference, offerors must provide satisfactory documentation in their offer that their property is qualifies as one of the following:

(1) An historic property within an historic district.

(2) A non-historic developed or undeveloped site within an historic district.

(3) An historic property outside of an historic district. (End of provision)

Dated: May 30, 2001.

David A. Drabkin,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 01–26446 Filed 10–18–01; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 000320077–1177–02; I.D. 062501B]

RIN 0648–AN62

Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

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

ACTION: Proposed rule; correction.

SUMMARY: This document, filed October 1, 2001, and published in the **Federal Register** on October 2, 2001, has inadvertently published without a RIN. This correction corrects that omission.

DATES: Written comments will be accepted on or before November 19, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Hoffman (ph. 727–570–5312, fax 727–570–5517, e-mail Robert.Hoffman@noaa.gov), or Therese A. Conant (ph. 301–713–1401, fax 301–713–0376, e-mail Therese.Conant@noaa.gov).

SUPPLEMENTARY INFORMATION:

Background

This document, published at 66 FR 50148, October 2, 2001, inadvertently omitted the RIN.

Correction

Accordingly, the RIN is corrected to read as set forth above.

Authority: 16 U.S.C. 1531-1544; and 16 U.S.C. 742a *et seq.*, unless otherwise noted.

Dated: October 15, 2001.

William T. Hogarth,

Assistant Administrator of Fisheries, National Marine Fisheries Service.

[FR Doc. 01–26455 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No.010723187–1241–02, I.D. 061101I]

RIN 0648–AP33

Threatened Fish and Wildlife; Status Review of the Gulf of Maine/Bay of Fundy Population of Harbor Porpoise under the Endangered Species Act (ESA)

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

ACTION: Notice of final determination and response to comments; notice of availability of final harbor porpoise status review; removal from candidate species list.

SUMMARY: The National Marine Fisheries Service (NMFS) has completed a status review of the Gulf of Maine/Bay of Fundy (GOM/BOF) stock of harbor porpoise (*Phocoena phocoena*). Based on analysis of the best scientific and commercial data available, as required by the Endangered Species Act (ESA), NMFS determined that listing this stock of harbor porpoise as threatened or endangered is not warranted at this time. In addition, based on the current status of the GOM/BOF stock, NMFS is removing this stock from the ESA candidate species list. This notice also announces the availability of the final status review.

DATES: This determination was made on September 28, 2001.

ADDRESSES: Copies of the final report of the status review can be obtained from: NMFS, Marine Mammal Division, 1315 East-West Highway, Silver Spring, MD 20910; or NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930-2298.

FOR FURTHER INFORMATION CONTACT: Emily Hanson, Office of Protected Resources, 301–713–2322 ext. 101; or Kim Thounhurst, Northeast Region, 978–281–9138. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

The final report of the status review on the GOM/BOF population of harbor porpoise is accessible by the Internet at http://www.nero.nmfs.gov/porptrp/.

Background

On August 2, 2001 (66 FR 40176), NMFS published a draft review of the biological status of the Gulf of Maine/Bay of Fundy (GOM/BOF) harbor porpoise stock. In the draft status review, NMFS made the preliminary determination that listing the GOM/BOF stock as threatened under the ESA was not warranted and that NMFS intended to remove the GOM/BOF harbor porpoise stock from the ESA candidate species list. In a status review completed in 1999 (64 FR 465, January 5, 1999), NMFS determined that listing the GOM/BOF population of harbor porpoise as threatened under the ESA was not warranted. NMFS also published a notice retaining the population on the ESA candidate species list to continue to monitor the species status and the results of implementation of the Harbor Porpoise Take Reduction Plan (HPTRP)(64 FR 480, January 5, 1999). The 1999 status review notice and the August 2001 draft status review notice also provided information on the background of ESA actions involving the GOM/BOF population of harbor porpoise, reviewed available scientific and commercial fishery information affecting the species, evaluated the status of the species according to criteria listed in the ESA, and described regulatory mechanisms in place to address harbor porpoise mortality and serious injury incidental to commercial fishing activities.

After consideration of the draft status review and public comments received, NMFS has determined not to list the harbor porpoise as threatened or endangered under the ESA and to remove the species from the ESA candidate species list. No significant changes have been made to the final report of the status review since publication of the draft in the **Federal Register** on August 2, 2001. The final status review is available to the public as a separate document. See **ADDRESSES** or information on Electronic Access in the **SUPPLEMENTARY INFORMATION** section of this notice for information on obtaining a copy of the final status review.

Comments and Responses

A summary of the comments on the status review and NMFS responses follows.

Comments on the Need for Listing

Comment 1: Three commenters supported NMFS' decision not to list harbor porpoise as threatened or endangered under the ESA.

Response: No information has been received since the publication of the draft status review to change NMFS' preliminary determination that listing is not warranted at this time.

Comments on the Status of Harbor Porpoise

Comment 2: One commenter, citing various potential negative biases in the mortality estimate, stated that actual mortality of harbor porpoise is likely to be higher than the annual estimated average mortality presented in the draft status review.

Response: NMFS recognizes that mortality estimates contain uncertainties. However, the estimates of mortality in U.S. and Canadian waters presented in the draft status review are the best available estimates. Additionally, these uncertainties are incorporated into the population viability analysis, as discussed in the draft status review, which predicted no chance of extinction in 100 years. These mortality estimates are reviewed and updated annually in NMFS Marine Mammal Stock Assessment Reports. The draft revised stock assessment for harbor porpoise, including mortality data from 1999 and 2000, is expected to be reviewed by the Atlantic Marine Mammal Scientific Review Group in November of 2001. The draft estimates will also be made available for public review and comment in the 2002 Stock Assessment Reports.

Comment 3: One commenter stated that NMFS must undertake the research recommended by the take reduction team to: (1) determine whether pingers were functioning on both sides of an actual take; and (2) randomly test net strings to determine the proportion of functioning versus deployed pingers.

Response: NMFS is preparing to conduct this research and anticipates conducting preliminary testing of pingers in the fall of 2001.

Comment 4: One commenter discussed the maximum rate of increase and recovery factor parameters, which are used to assess the status of harbor porpoise.

Response: The maximum rate of increase and recovery factor that NMFS used in conducting the harbor porpoise status review have been reviewed by the Atlantic Marine Mammal Scientific Review Group and the public through the annual Stock Assessment Report (SAR) process as mandated by section 117 of the MMPA. These values are the best available for the assessment of the harbor porpoise population. NMFS will consider this comment in its review of the SAR.

Comments on the Adequacy of Regulatory Mechanisms

Comment 5: One commenter stated that any changes in Fishery Management Council actions are likely to result in an increase in harbor porpoise mortality, and there is no plan in place to prevent this from happening. Therefore, the commenter concluded that current regulatory mechanisms are not adequate to protect harbor porpoise.

Response: NMFS' current strategy for reducing serious injury and mortality of harbor porpoise in commercial fisheries is to combine measures promulgated under the Marine Mammal Protection Act (MMPA) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In the final rule implementing the HPTRP (63 FR 66464, December 2, 1998), NMFS considered the cumulative scope of management actions under the Magnuson-Stevens Act and MMPA that would affect harbor porpoise bycatch and determined that a combined strategy was the best administrative approach. This strategy has reduced the bycatch to below the PBR level in both 1999 and 2000. If Fishery Management Plan (FMP) changes that may increase harbor porpoise bycatch are proposed, NMFS has authority under the MMPA to implement measures to reduce bycatch to appropriate levels. This adaptive strategy is adequate to address potential increases in harbor porpoise bycatch.

Comment 6: One commenter stated that if NMFS is considering the reduction in mortality that is gained through fishery management actions as a means of assessing the efficacy of management measures, NMFS must also consider the result if these temporary actions are altered or removed. The commenter noted that if closures are lifted or re-configured, the mortality of harbor porpoise is likely to increase once again. These questions about the stability of the Fishery Management Council actions lead, as a consequence, to doubts about their adequacy over the long term.

Response: NMFS and the New England Fishery Management Council (Council) are responsible for meeting the objectives of the Multispecies FMP, which include harbor porpoise conservation goals parallel to those under the MMPA. In addition, a member of the Council staff also sits on each of the two Harbor Porpoise Take Reduction Teams.

The history of implementation of harbor porpoise conservation measures under the Multispecies FMP, as described in the draft status review, clearly demonstrates the commitment of both NMFS and the Council to conserve harbor porpoise by restricting the Northeast sink gillnet fishery for groundfish as appropriate. NMFS has multiple options to address any risks to harbor porpoise that might arise through proposed changes to the Multispecies FMP. In addition, NMFS is a member of the Council, including the Council's Plan Development team, and works cooperatively with the Council staff in developing changes to the FMP. Therefore, NMFS will be aware of any of the Council's proposed groundfish regulatory changes that may directly or indirectly affect harbor porpoise, and NMFS will work with the Council and the two Harbor Porpoise Take Reduction Teams to determine whether any changes to the Multispecies FMP would require additional measures to protect harbor porpoise in the HPTRP regulations.

Comment 7: One commenter stated that fishery-related management actions have had a positive impact on harbor porpoise bycatch, and that effect cannot be understated.

Response: See responses to Comments 5 and 6.

Comment 8: One commenter stated that if mortality of harbor porpoise is to be curtailed, then it is critical to enforce the laws and regulations protecting them. The commenter also stated that the current level of enforcement is inadequate. Another commenter stated that NMFS must seriously consider using observer data to identify individual violators.

Response: Increased enforcement presence was also recommended by the Gulf of Maine Harbor Porpoise Take Reduction Team. At the Team's recommendation, NMFS is working on a compliance and enforcement plan for the HPTRP. At-sea boardings and direct observations of violations by NMFS enforcement and U.S. Coast Guard officers are the primary source of enforcement evidence used to develop a case. Observer data are used to provide a measure of overall compliance with Take Reduction Plan requirements and aid in focusing enforcement efforts.

Comment 9: One commenter noted that while NMFS states in the draft status review that the agency will monitor actions taken by the Council, and ''may also revise the HPTRP to incorporate all measures necessary to ensure reduced harbor porpoise bycatch rather than relying on FMP time-area closures'', it makes no commitment to do so.

Response: As described in the response to Comment 6, NMFS is actively involved in the Council process. The Council is also directly involved in the harbor porpoise take reduction process through membership of Council staff on the Harbor Porpoise Take Reduction Teams.

It is appropriate to manage harbor porpoise bycatch through both the Magnuson-Stevens Act and MMPA as described in the response to Comment 6. NMFS has the authority to adjust the U.S. harbor porpoise bycatch reduction program through the MMPA and/or the Magnuson-Stevens Act if the agency determines that proposed changes to FMPs would reduce harbor porpoise protection. It is important to emphasize that the Multispecies FMP also includes an objective requiring the reduction of harbor porpoise bycatch.

Comment 10: One commenter stated that the increase in harbor porpoise mortality between 1999 and 2000 may be an indication that mitigation measures are not sufficient.

Response: For both years the bycatch is below the PBR level. However, NMFS agrees that increases in bycatch are a concern and will continue to monitor the harbor porpoise bycatch and the effectiveness of the HPTRP.

Comment 11: One commenter stated that NMFS must revise the HPTRP to incorporate as requirements, not merely by reference, all of the measures necessary to achieve both a take level below PBR and the zero mortality rate goal.

Response: The current suite of measures under the MMPA and Magnuson-Stevens Act have already reduced the bycatch of harbor porpoise to below the PBR level. If the level of bycatch increases such that it exceeds PBR or does not continue toward the zero mortality rate goal, the agency will reconvene the take reduction team to address the issue.

Comment 12: NMFS' bycatch reduction strategy is strongly predicated on a calculated level of pinger effectiveness for various areas and seasons. This calculation does not accommodate any variation due to harbor porpoise habituation to pingers or the catch of harbor porpoise in pingered nets as a result of the failure of fishermen to fully comply with the pinger requirements.

Response: The expected level of pinger effectiveness does not consider habituation or non-compliance. However, it is not currently possible to quantify these potential effects. Furthermore, through the Harbor Porpoise Take Reduction Teams, NMFS has the authority to modify the HPTRP based on a new expected level of pinger effectiveness should such information become available.

Comments on the Removal of Harbor Porpoise from the Candidate Species List

Comment 13: Two commenters supported and two commenters opposed removal of harbor porpoise from the ESA candidate species list.

Response: NMFS is removing the GOM/BOF stock of harbor porpoise from the ESA candidate species list. This action is appropriate because of the current status of the species and the adequacy of regulatory mechanisms available to address risks to the population. NMFS will continue to monitor the status of harbor porpoise pursuant to the stock assessment process mandated under section 117 of the MMPA. In addition, NMFS will continue to monitor harbor porpoise bycatch, compliance with the HPTRP, and the potential effect of changes in FMPs on harbor porpoise bycatch. The removal of this stock from the ESA candidate species list does not change NMFS' mandates under the MMPA with regard to harbor porpoise protection under the HPTRP or other MMPA programs.

Final Determination

Section 4(b)(1) of the ESA requires the Secretary of Commerce to make a listing determination solely on the basis of the best scientific and commercial data available and after taking into account efforts being made to protect the species. Therefore, in reviewing the status of the GOM/BOF population of harbor porpoise, NMFS has assessed the status of the species according to the criteria in the ESA.

Since 1999, NMFS has obtained no information demonstrating that factors other than mortality incidental to commercial fishing could cause the stock to be in danger of extinction or likely to become so in the foreseeable future or that available regulatory mechanisms are inadequate to reduce harbor porpoise mortality and serious injury. After analysis of the GOM/BOF population of harbor porpoise under the five ESA listing factors, NMFS has determined that the stock is not in danger of extinction throughout all or a significant portion of its range, and it is not likely to become endangered in the foreseeable future. Therefore, listing the GOM/BOF population of harbor porpoise as threatened or endangered is not warranted at this time. In addition, because of the current status of the species it is appropriate to remove the GOM/BOF harbor porpoise population from the ESA candidate species list.

The most significant factors that NMFS considered in making this determination are the new abundance estimate from the 1999 survey and the results of measures promulgated under the MMPA through the HPTRP and under the Magnuson-Stevens Act through the Northeast Multispecies FMP that directly or indirectly reduce the level of harbor porpoise mortality incidental to commercial fishing in U.S. waters, the Harbor Porpoise Conservation Strategy implemented by the Canada Department of Fisheries and Oceans, and the existing authority by which regulatory agencies can adapt management measures if unanticipated changes in porpoise bycatch patterns occur. Although it is likely that porpoise mortality will continue to occur incidental to fishery operation, existing regulatory mechanisms and authority for amending these mechanisms to address bycatch in commercial fisheries are adequate to ensure that bycatch in commercial fisheries do not cause harbor porpoise to be in danger of extinction throughout all or a significant portion of its range, and it is not likely to become endangered in the foreseeable future.

Although the HPTRP and other bycatch reduction efforts have reduced the incidental take of harbor porpoise in gillnet fisheries to below the PBR level in both 1999 and 2000, it is clear that harbor porpoise bycatch must continue to be monitored. NMFS has documented non-compliance with HPTRP regulations that may have reduced its effectiveness, requiring additional outreach and enforcement measures. Furthermore, fishery management measures have changed since the implementation of the HPTRP and may continue to change via the annual adjustment process in the Multispecies FMP. It is possible that closures implemented for fish conservation will be removed when fish stocks reach their rebuilding targets, which could result in an increased risk to harbor porpoise and may require adjustment of the HPTRP.

NMFS will continue to monitor bycatch levels and will adjust the HPTRP as necessary to maintain bycatch levels within the goals established by section 118 of the MMPA. NMFS will also monitor any proposed regulations and proposed changes to existing regulations that may affect harbor porpoise bycatch and consider whether management measures need to be changed. NMFS intends to reconvene the two Harbor Porpoise Take Reduction Teams as necessary to monitor the implementation of the HPTRP relative to MMPA goals.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: October 12, 2001.

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–26454 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 203
Friday, October 19, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Draft Program Comment Regarding Historic Preservation Review Process for Projects Involving Historic Natural Gas Pipelines

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Intent to issue program comments on Historic Natural Gas Pipelines.

SUMMARY: The Advisory Council on Historic Preservation proposes a Program Comment to streamline the historic preservation review process for projects involving historic natural gas pipelines.

DATES: Submit comments on or before November 9, 2001.

ADDRESSES: Address all comments concerning this proposed program comment to Don Klima, Director, Office of Planning and Review, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606–8672. You may submit electronic comments to: *dklima@achp.gov.*

FOR FURTHER INFORMATION CONTACT: Don Klima, 202–606–8505.

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of their undertakings on historic properties and provide the Advisory Council on Historic Preservation (''Council'') a reasonable opportunity to comment with regard to such undertakings. The Council has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 (''Section 106 regulations'').

The Council can streamline the regular Section 106 review process through program comments. 36 CFR 800.14(e). Instead of going through each of the steps detailed in subpart B of the Section 106 regulations, an agency can meet its Section 106 responsibilities for a specific program by taking into account the Council's program comments and following the steps set forth in those comments.

The Council is now proposing a program comment to help the Federal Energy Regulatory Commission (''Commission'') meet its Section 106 responsibilities regarding natural gas pipelines. Specifically, the program comment deals with authorizations to construct, operate, and abandon natural gas pipelines and related pipeline facilities under Section 7 of the Natural Gas Act, 5 U.S.C. 717f, including the blanket authorizations under 18 CFR parts 157 and 284 of the Commission's regulations. The Commission's part 157, subpart F blanket authorization program applies to specified projects below a set cost level. Projects above that cost are processed pursuant to part 157, subpart A. Part 284 applies to activities conducted pursuant to section 311 of the Natural Gas Policy Act.

Consistent with Section 106, it is the Commission's responsibility to take into account the effect that issuing such authorizations has on historic properties. Due to the planning process for some pipeline projects, such as construction, many historic properties that might be affected by the construction can be avoided during right-of-way selection or during the construction process itself. However, in some pipeline projects, the historic properties simply cannot be avoided. Such is the case regarding existing natural gas pipelines and related pipeline facilities that are listed, or eligible for listing, in the National Register of Historic Places (''historic natural gas pipelines''). Natural gas pipelines and related pipeline facilities may be historic due to such things as their particular design and engineering features, or their association with important national or regional historic events and well-known persons. It is the Council's belief that the historic significance of historic natural gas pipelines is appropriately preserved through recordation of their historic attributes. This may include preservation of original construction drawings and documents, photographic recordation of current conditions, assembly and archiving of historical documentation, and retention and curation of artifacts from or associated with the historic pipeline.

Although most historic natural gas pipelines could be treated fairly expeditiously during compliance with Section 106, under Commission regulations the occurrence of an effect on a historic natural gas pipeline as a practical matter disqualifies the pipeline company from completing the project under a blanket certificate. 18 CFR part 157, subpart F, Appendix II, and 18 CFR part 284. This creates delays since, absent the ability to proceed under a blanket certificate, a fuller environmental review must be conducted and completed by the Commission, which may take substantially more time and resources. The potential for delay can impede necessary maintenance, repair and replacement actions that are essential to protect public health, ensure pipeline safety and provide essential energy resources. Absent an effect finding, pipeline companies can proceed under a blanket certificate for many types of projects, substantially simplifying the approval process, reducing required documentation, and expediting the necessary work undertaken by the pipeline company. These program comments give certificate holders the ability to stay within their blanket certificate, so long as the relevant historic natural gas pipeline is appropriately documented.

For applicants who are unable to proceed under a blanket certificate, but who appropriately document the relevant historic natural gas pipeline, these program comments provide a more efficient and predictable process that also results in an acceptable preservation outcome.

This streamlining initiative is consistent with the Administration's National Energy Policy (Report of the National Energy Policy Group, May 2001), and Executive order 13212 (May 18, 2001), which requires agencies to ''expedite their review of permits or take other actions as necessary to accelerate the completion of (projects that will increase the production, transmission, or conservation of energy), while maintaining safety, public health, and environmental protections.''

Once issued, these program comments will remain in effect unless the Council

determines that the consideration of effects to historic natural gas pipelines is not being carried out in a manner consistent with these program comments and withdraws the comments. 36 CFR 800.14(e)(6).

These program comments will not apply to tribal land without the consent of the relevant tribe. The Council believes that these program comments have no consequences for historic properties of religious and cultural significance, regardless of location, to any Indian tribe or Native Hawaiian organization since they are limited to effects on only one type of historic property (i.e., historic natural gas pipelines). The Council is not aware of any historic natural gas pipelines that are of such significance to tribes or Native Hawaiian organizations.

The Council is seeking comments regarding the proposed program comments. Such comments must be received by the deadline set forth above in order to be considered by the Council.

The full text of the proposed program comment is reproduced below.

Program Comment for Historic Natural Gas Pipelines

I. Introduction

These program comments provide the Federal Energy Regulatory Commission (''Commission'') with an alternate way to comply with its responsibilities under Section 106 of the National Historic Preservation Act (''Section 106''), with regard to effects on natural gas pipelines and related pipeline facilities (''pipelines'') when authorizing projects under Section 7 of the Natural Gas Act by either (a) applicants pursuant to 18 CFR part 157, subpart A, or (b) certificate holders pursuant to 18 CFR part 157, subpart F and 18 CFR part 284 of the Commission's regulations (''pipeline projects'').

II. Effects on Historic Natural Gas Pipelines

a. Evaluation

For pipeline projects affecting pipelines 50 years old or older not previously evaluated for eligibility for listing in the National Register of Historic Places (''National Register''), the applicant/certificate holder will consult with the appropriate State Historic Preservation Officer (''SHPO'') to apply the National Register Criteria to the pipeline.

(1) If the applicant/certificate holder and SHPO agree that the pipeline is not eligible for listing in the National Register, then the pipeline will not be treated as a historic property for Section 106 purposes.

(2) If the applicant/certificate holder and SHPO agree that the pipeline is eligible for listing in the National Register, proceed to subparagraph (b), below.

(3) If the applicant/certificate holder and the SHPO cannot agree on the eligibility of the pipeline, these program comments will not be applicable to the pipeline project.

b. Treatment

(1) For pipelines already listed or determined to be eligible for listing in the National Register and for those determined to be eligible for National Register listing pursuant to subparagraph (a)(2) (''historic pipelines''), the applicant/certificate holder will consult with the appropriate SHPO to determine the appropriate level and type of documentation. In determining what is appropriate, the applicant/certificate holder and the SHPO should consider the likelihood and magnitude of future impacts.

(2) If the applicant/certificate holder and SHPO agree regarding documentation, the applicant/certificate holder will document the historic pipeline, or relevant portion thereof, and contributing features as follows:

(i) Documentation will be carried out in accordance with the Secretary of the Interior's Guidelines for Architectural and Engineering Documentation to meet, at a minimum, the Documentation Level IV Standard.

(ii) The documentation will be placed in an appropriate depository as recommended by the SHPO.

(iii) Once the applicant/certificate holder and the SHPO have agreed regarding this documentation and deposit, the project cannot be found to have an effect (as defined under 36 CFR part 800) upon the characteristics that make the pipeline eligible for National Register listing, and the requirements of Section 106 with regard to the historic pipeline will be deemed to have been met. Documentation and deposit need not be completed for this provision to apply, except to the extent that modification of the historic pipeline would preclude the subsequent completion of the agreed-upon documentation and deposit.

(iv) For those pipeline projects carried out by an applicant under 18 CFR part 157, subpart A, the applicant will also submit to the Commission the information necessary to comply with 18 CFR 380.12 (f).

(3) If the applicant/certificate holder and the SHPO cannot agree on the level and type of documentation and/or the depository, then these Program Comments will not be applicable.

III. Effects on Other Historic Properties

These program Comments address only pipeline project effects to historic pipelines. These program comments do not apply to potential effects to other properties listed in, or eligible for inclusion in, the National Register.

IV. Applicability

These Program Comments are not applicable on tribal lands, as defined under 36 CFR 800.16(x) (''all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities''), unless the relevant tribe consents. Federal agencies other than the Commission may use these program comments for pipeline projects that take place on federally administered lands under their jurisdiction.

Authority: 36 CFR 800.14(e)

Dated: October 16, 2001.

Ronald D. Anzalone,

Acting Executive Director.

[FR Doc. 01–26437 Filed 10–18–01; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

SUPPLEMENTARY INFORMATION: The National Agricultural Research, Extension, Education, and Economics Advisory Board, which represents 30 constituent categories, as specified in section 802 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. No. 104–127), has scheduled a National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting, October 30, 2001–November 1, 2001.

On Tuesday, October 30, 2001, through Thursday, November 1, 2001, the Advisory Board will hold a general meeting at the Washington Court Hotel in Washington, DC. An Orientation

Session for newly appointed Advisory Board members will be held, on Tuesday, October 30, 2001, from 9:00 a.m. until 12:00 p.m. The afternoon session will include remarks by the Secretary of Agriculture (invited) and an opening address by the Honorable Clayton Yeutter, former Secretary of Agriculture and former U.S. Trade Representative. The theme of the afternoon's Focus Session is *Global Agricultural Trade and Policy: U.S. Research Implications.* From 2:30 p.m.–5:30 p.m., a panel will be held on international trade policies, which will consist of several international trade representatives to the United States including the European Union, Brazil, and China. An evening session from 6 p.m.–7:30 p.m. will have two guest speakers, who will talk about the National Coalition on Food and Agricultural Research (N–CFAR) and the National Association of State Universities and Land-Grant Colleges (NASULGU) Food and Society Initiative.

On Wednesday, October 31, 2001, the Advisory Board will conduct general business, hear remarks from Dr. Joseph Jen, USDA Under Secretary, Research, Education, and Economics, and continue with special panels throughout the day on *Global Agricultural Trade and Policy: U.S. Research Implications.* Topics will include an overview of U.S. trade in agriculture, understanding impediments to global trade, and World Bank perspectives on currency exchange issues and other economic factors. Congressional panels held in the afternoon will include Marketing U.S. Food and Agriculture and the implications for research and education.

On Thursday, November 1, 2001, from 8 a.m.–12 p.m., special reports of interest (e.g., results of the Blue Ribbon Panel study on USDA's National Agricultural Library; an update on the reorganization of USDA's Cooperative State Research, Education, and Extension Service; and Research, Education, and Economics agency updates) will be presented to the Advisory Board. Detailed discussion and wrap-up of the Focus Session will be addressed by Board members. Ambassador Allen Johnson, Chief Agriculture Negotiator for Office of the United States Trade Representative, has been invited to speak about ''What's on the Horizon for Research on Agricultural World Trade.'' New members to the 9-member Executive Committee will be determined by Board vote. Limited time each day will be provided for comments from the public as noted in a forthcoming agenda. Also, written comments will be accepted for public record up to two weeks following the Advisory Board meeting. The findings of the Focus Session, based on input from speakers and other stakeholders, will be consolidated into recommendations to the Secretary of Agriculture.

Dates:

- October 30, 2001, 9 a.m.–12 p.m., Orientation for New Board members
- October 30, 2001, 1 p.m.–5:30 p.m., Focus Session
- October 30, 2001, 6 p.m.–7:30 p.m., Working Reception with Guest Speaker
- October 31, 2001, 8 a.m.–6 p.m., Advisory Board Meeting and Focus Session
- October 31, 2001, 12 p.m.–1:30 p.m., Working Lunch with Speaker
- November 1, 2001, 8 a.m.–12 p.m., Focus Session, Special Reports of Interest, Discussion, and Wrap-up

Place: Washington Court Hotel, 525 New Jersey Avenue, NW.; Washington, DC; Atrium Ballroom and Executive Room (Reception Only).

Type of Meeting: Open to the Public.

Comments: The public may file written comments before or after the meeting (up to two weeks after the meeting) with the contact person. All statements will become part of the official records of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Office of the Advisory Board; Research, Education, and Economics; U.S. Department of Agriculture; Washington, DC 20250–2255.

For Further Information Contact: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board; Research, Education, and Economics Advisory Board Office; Room 344–A, Jamie L. Whitten Building; U.S. Department of Agriculture; STOP 2255; 1400 Independence Avenue, SW.; Washington, DC 20250–2255; Telephone: (202) 720–3684; FAX: (202) 720–6199; E-mail: smorgan@reeusda.gov.

Done at Washington, DC, this 16th day of October, 2001.

Joseph J. Jen,

Under Secretary, Research, Education, and Economics.

[FR Doc. 01–26478 Filed 10–17–01; 12:29 pm]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Form FNS–135, Affidavit of Return or Exchange of Food Coupons

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on a proposed revision of a currently approved information collection contained in form FNS–135, Affidavit of Return or Exchange of Food Coupons.

DATES: Written comments must be submitted on or before December 18, 2001.

ADDRESSES: Send comments and requests for copies of this information collection to: Jeffrey N. Cohen, Branch Chief, Electronic Benefit Transfer Branch, Benefit Redemption Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Jeffrey N. Cohen, (703) 305–2523.

SUPPLEMENTARY INFORMATION:

Title: Affidavit of Return or Exchange of Food Coupons.

OMB Number: 0584–0052.

Form Number: FNS–135.

Expiration Date: 11/30/2001.

Type of Request: Revision of a currently approved collection.

Abstract: Section 7(d) of the Food Stamp Act of 1977, as amended, (7

U.S.C.2016(d)) requires that State agencies determine and monitor food stamp coupon inventories. The Food Stamp Program regulations at 7 CFR 274.6(f) require that State agencies replace improperly manufactured or mutilated coupons after the recipient requesting replacement completes an FNS–135, Affidavit of Return or Exchange of Food Coupons. The form must also be used when coupons are returned for other reasons such as the return of found coupons. The forms document the return of coupons and provides an audit trail for their processing within State agency offices. The proposed revision reflects the fact that the expected number of respondents should be less than in previous years because the number of food stamp coupons has declined over the past several years with the implementation of electronic benefit delivery systems.

Affected Public: State and local government employees and recipients.

Estimated Number of Respondents: 30,000.

Estimated Number of Responses per respondent: 1.

Estimated Time per Response: .25 hours.

Estimated Total Annual Burden: 7,500 hours annually.

Dated; October 10, 2001.

George A. Braley,

Acting Administrator.

[FR Doc. 01–26466 Filed 10–18–01; 8:45 am]

BILLING CODE 3410–30–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 19, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each service will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Janitorial/Custodial, U.S. Army Reserve Center, Newington, Connecticut
NPA: Greater Enfield Allied Rehabilitation Centers, Inc., Enfield, Connecticut
Government Agency: Fort Devens Reserve Forces Training Center

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities are proposed for deletion from the Procurement List:

Commodities

Adhesive Tape, Surgical
6510–01–060–1639
6510–01–107–0223
6510–01–284–5110
6510–01–285–3896
6510–01–368–2659
6510–01–368–2660
6510–01–370–4099
6510–01–370–4100
6510–00–926–8882
6510–00–926–8883
Government Agency: Department of Veterans Affairs
Adhesive Tape, Surgical
6510–01–060–1639
6510–01–107–0223
6510–01–284–5110
6510–01–285–3896
6510–01–368–2659
6510–01–368–2660
6510–01–370–4099
6510–01–370–4100
6510–00–926–8882
6510–00–926–8883
Government Agency: Defense Supply Center Philadelphia
Penetrating Fluid
6850–00–973–9091

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–26403 Filed 10–18–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: November 19, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: On April 13, May 11, July 27, August 10 and August 31, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 19136, 24100, 39142, 42198 and 45960) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are added to the Procurement List:

Commodities

Shaft, Propeller
2520–01–171–4844
Paper, Xerographic
7530–01–398–2652

Services

Base Supply Center, United States Coast Guard, Integrated Support Command, Alameda, California
Base Supply Center, Fort McCoy, Wisconsin, Facilities Management, Television Audio Support Activity (TASA), McClellan AFB, California
Grounds Maintenance, Naval Base, Ventura County, California
Janitorial/Custodial, Eielson Air Force Base, Alaska
Manufacturing and Development Assistance, U.S. Army Natick Research Development & Engineering Center, Natick, Massachusetts

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–26404 Filed 10–18–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Addition; Correction

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to procurement list.

SUMMARY: In the document appearing on page 51005, FR Doc. 01–25042, in the issue of October 5, 2001, in the third column the Committee published a notice of proposed addition to the Procurement List of, among other things, Shirt, Sleeping, 8415–00–890–2099, 8415–00–890–2101, 8415–00–890–2102 and 8415–00–890–2013. This notice is amended to include 8415–00–890–2100 and 8415–00–935–6855, which was omitted from original notice, and to correct the omission that this proposed addition is for the Remaining 50% of the Governments Requirement.

Comments Must be Received on or Before: November 19, 2001.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions. If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each commodity will be required to procure the commodity listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodity proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Shirt, Sleeping
8415–00–890–2099
8415–00–890–2100
8415–00–890–2101
8415–00–890–2102
8415–00–890–2203
8515–00–935–6855
(Remaining 50% of the Government Requirement)

NPA: BOST Human Development Services Fort Smith, Arkansas.

Government Agency: Defense Supply Center Philadelphia.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–26402 Filed 10–18–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815, A–580–816]

Cold-Rolled and Corrosion Resistant Carbon Steel Flat Products From Korea: Extension of Time Limits for the Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for the final results of antidumping duty administrative review.

EFFECTIVE DATE: October 19, 2001.

FOR FURTHER INFORMATION CONTACT: James Doyle at (202) 482–0159; Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department of Commerce (''the Department'') to issue the final results of an antidumping duty investigation within 120 days of the date the preliminary results are issued. However, if the Department concludes that it is not practicable to issue the results by the original deadline, it may extend the 120-day period to 180 days.

Background

On October 2, 2000, the Department initiated the above-referenced review. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 65 FR 58733 (October 2, 2000). The preliminary results were published in the **Federal Register** on September 11, 2001. *See Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review* (''*Preliminary Results*''), 66 FR 47163 (September 11, 2001). The current due date for the final results is January 9, 2001.

Extension of Time Limits for the Final Results

Due to the complexity of issues involved in these cases, such as complicated cost accounting, downstream home market affiliated parties, and the addition of a new respondent in this seventh administrative review, it is not practicable to complete these reviews within the original time limit. Therefore, the Department has postponed the deadline for issuing the final results until March 11, 2002, which is 180 days after publication of the *Preliminary Results.*

Dated: October 12, 2001.

Richard O. Weible,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–26447 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–837]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Greenhouse Tomatoes From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended preliminary determination of sales at less than fair value and postponement of final determination.

SUMMARY: The Department of Commerce is amending the preliminary determination of sales at less than fair value in the antidumping duty investigation of greenhouse tomatoes from Canada to reflect the correction of a significant ministerial error made in the dumping-margin calculation regarding BC Hot House Foods, Inc., and is postponing the final determination.

EFFECTIVE DATE: October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Thomas Schauer, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone; (202) 482–4794 or (202) 482–0410, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to 19 CFR part 351 (April 2000).

Significant Ministerial Error

The Department of Commerce (the Department) is amending the preliminary determination of sales at less than fair value in the antidumping duty investigation of greenhouse tomatoes from Canada to reflect the correction of a significant ministerial error made in the dumping-margin calculation regarding BC Hot House Foods, Inc., in that determination, pursuant to 19 CFR 351.224(g)(1) and (g)(2). A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. See 19 CFR 351.224(f). A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. See 19 CFR 351.224(g). We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e). As a result of this amended preliminary determination, we have revised the weighted-average dumping margin for BC Hot House Foods, Inc.

Scope of Investigation

The merchandise subject to this investigation consists of all fresh or chilled tomatoes grown in greenhouses in Canada, *e.g.,* common round tomatoes, cherry tomatoes, plum or pear tomatoes, and cluster or ''on-the-vine'' tomatoes. Specifically excluded from the scope of this investigation are all field-grown tomatoes.

The merchandise subject to this investigation may enter under item numbers 0702.00.2000, 0702.00.2010, 0702.00.2030, 0702.00.2035, 0702.00.2060, 0702.00.2065, 0702.00.2090, 0702.00.2095, 0702.00.4000, 0702.00.4030, 0702.00.4060, 0702.00.4090, 0702.00.6000, 0702.00.6010, 0702.00.6030, 0702.00.6035, 0702.00.6060, 0702.00.6065, 0702.00.6090, and 0702.00.6095 of the Harmonized Tariff Schedule of the United States (HTSUS). These subheadings may also cover products that are outside the scope of this investigation, *i.e.,* field-grown tomatoes. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Ministerial-Error Allegation

On October 1, 2001, the Department issued its affirmative preliminary determination in this proceeding. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada,* 66 FR 51010 (October 5, 2001) (*Preliminary Determination*). The following five companies are respondents in this investigation: BC Hot House Foods, Inc.,

Red Zoo Marketing (a.k.a. Produce Distributors, Inc.), Veg Gro Sales, Inc. (a.k.a. K & M Produce Distributors), J-D Marketing, Inc., and Mastronardi Produce Ltd.

On October 5 and 9, 2001, the Department received timely allegations of ministerial errors in the *Preliminary Determination* from BC Hot House Foods, Inc., and Red Zoo Marketing, respectively. BC Hot House Foods, Inc., alleged three ministerial errors: (1) The Department used arithmetically incorrect conversion factors in calculating the warehousing expense adjustment, (2) the Department incorrectly used a simple average, not a weighted average, to combine certain growers' costs, and (3) the Department incorrectly eliminated transactions with billing adjustments that exceed gross unit price only if the adjustments bore a negative value rather than eliminating billing adjustments with both positive and negative vales that exceed gross unit price. See October 5, 2001, letter from BC Hot House Foods, Inc., alleging ministerial errors in the *Preliminary Determination*. Red Zoo Marketing alleges that the Department made a ministerial error in calculating separate costs for roma tomatoes-on-the-vine (TOVs) and cherry TOVs produced by Great Northern Hydroponics. See October 9, 2001, letter from Red Zoo Marketing alleging ministerial errors in the *Preliminary Determination*.

We have reviewed our preliminary dumping-margin calculations for BC Hot House Foods, Inc., and agree that only one of the three errors that the respondent alleges is a ministerial error within the meaning of 19 CFR 351.224(f). Specifically, we agree that we used arithmetically incorrect conversion factors in calculating the warehousing expense adjustment. In the *Preliminary Determination* we treated the warehousing expense adjustment as if the respondent reported it on a per kilogram basis. After further analyzing the record in response to the ministerial-error allegation, we find that the record indicates that BC Hot House Foods, Inc., reported the warehousing expense adjustment on a per-case basis as claimed in its ministerial-error allegation. For example, in the respondent's August 31, 2001, and September 5, 2001, submissions, it specifically stated that the unit basis for these warehousing expenses is Canadian dollars per case. Further, the figure BC Hot House Foods, Inc., used as the denominator for calculating the warehousing expense adjustment is only one third the size of the kilogram value that it reported in the volume and value table at Exhibit A–24 of its August 23, 2001, supplemental questionnaire response. This supports that BC Hot House Foods, Inc., calculated and reported the warehousing expense adjustment on a per-case basis. Furthermore, we determine that this ministerial error rises to the level of a ''significant error'' pursuant to 19 CFR 351.224(g)(1) and (g)(2), and we are amending the *Preliminary Determination* to reflect the correction of this significant ministerial error made in the dumping-margin calculations for BC Hot House Foods, Inc., pursuant to 19 CFR 351.224(e). See the BC Hot House Foods, Inc., Amended Preliminary Determination Analysis Memorandum dated October 15, 2001. We have corrected this ministerial error by treating the warehousing expense adjustment as a per-case amount in the dumping-margin calculation.

After analyzing the other two ministerial errors alleged by BC Hot House Foods, Inc., we have determined that the alleged ''errors'' the respondent describes are not ministerial errors, and that the allegations are more properly classified as comments on our methodology. With regard to the allegation that we incorrectly used a simple average, not a weighted average, to combine certain growers' costs, on page 6 of our October 1, 2001, Preliminary Determination Analysis Memorandum for BC Hot House Foods, Inc., we specifically stated that this is the methodology we intended to use where more than one of the ''cost respondents'' provided costs for a given product. This was not a ministerial error. Similarly, with regard to BC Hot House Foods, Inc.'s, allegations that we incorrectly eliminated transactions with billing adjustments that exceed gross unit price only if the adjustments bore a negative value, rather than eliminating billing adjustments with both positive and negative values that exceed gross unit price, we do not find this to be a ministerial error. The elimination of transactions with negative billing adjustments that exceed gross unit price is consistent with our practice of disregarding transactions with adjustments that result in negative prices. See, *e.g., Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review,* 63 FR 12764, 12781 (March 16, 1998). Further, the methodology we applied is consistent with the explanation provided on page 10 of our October 1, 2001, Preliminary Determination Analysis Memorandum for BC Hot House Foods, Inc. With regard to billing adjustments where the positive values of such adjustments exceed gross unit price, we included such transactions in the dumping-margin calculation because there is no information on the record that supports their exclusion.

As noted above, Red Zoo Marketing alleges that the Department made a ministerial error in calculating separate costs for roma tomatoes-on-the-vine (TOVs) and cherry TOVs produced by Great Northern Hydroponics. Red Zoo Marketing claims that the cost figures the Department calculated are ''so grossly overstated and unrealistic as to be clear error'' and that the costs the Department calculated for these tomatoes are many times greater than the next highest cost of any type of tomato produced by any other Canadian producer. Red Zoo Marketing further claims that the vast majority of its production is of round red TOVs and alleges that cost differences between different varieties of TOVs are not significant because, according to Red Zoo Marketing, all require the same inputs and have comparable productivity and vine life.

Red Zoo Marketing further contends that the error was caused in large part by the Department's faulty question in its supplemental questionnaire. Because of the way the question was worded and because Red Zoo Marketing did not know the reason the Department asked the question, Red Zoo Marketing states that it reported the product-specific areas as of December 31, 1999, and December 31, 2000. Red Zoo Marketing claims that the areas do not and were not intended to represent actual usage of the available greenhouse facilities throughout the year.

Red Zoo Marketing suggests two methods for fixing the alleged ministerial error. First, it suggests that the Department should use a single per-unit cost calculated for all of Great Northern Hydroponics's production. Alternatively, if the Department finds it necessary to continue calculating costs for each type, Red Zoo Marketing suggests that the Department use the data it attached to its October 9, 2001, ministerial-error allegation which would provide a more accurate measurement of the areas under production throughout the period of investigation rather than the year-end snapshot the Department used for the preliminary determination.

After analyzing Red Zoo Marketing's comments, we have determined that the alleged ''error'' Red Zoo Marketing describes is not a ministerial error. We made our decisions for the preliminary determination based on the record before us. Red Zoo Marketing's comments about our segregation of

Great Northern Hydroponics's costs between tomato types and our use of the year-end product-specific area usage are more properly classified as comments on our methodology and not ministerial errors.

Further, to the extent the costs we calculated are ''absurdly'' high, it is not primarily a result of our methodology or the area data we used in calculating the costs but, rather, it overwhelmingly depends on the production quantities Great Northern Hydroponics reported. In examining Red Zoo Marketing's October 9, 2001, ministerial-error allegation, we found that Red Zoo Marketing used new production quantities for roma TOVs and cherry TOVs because ''certain products were misclassified.'' See Red Zoo Marketing's October 9, 2001, ministerial-error allegation submission at page 10. This misclassification relates to how Red Zoo Marketing reported product-specific production quantities prior to the preliminary determination, not how the Department made adjustments in calculating the respondent's antidumping margin. The production quantities for these tomato types, which Red Zoo Marketing submitted after the preliminary determination in its ministerial error allegation, are approximately ten times greater than those production quantities Great Northern Hydroponics reported in its August 28, 2001, supplemental response. To the extent that there was an error in data the company submitted to us for use in the preliminary determination, it was not an error on our part. Accordingly, we have not recalculated Red Zoo Marketing's dumping margin for this amended preliminary determination. We intend, however, to examine this issue closely at verification.

The collection of bonds or cash deposits and suspension of liquidation will be revised accordingly and parties will be notified of this determination in accordance with sections 733(d) and (f) of the Act.

Amended Preliminary Determination

As a result of our correction of a ministerial error for BC Hot House Foods, Inc., we have determined that a revised weighted-average dumping margin of 33.95 percent applies to this company. In addition, we have recalculated the ''all others'' dumping margin to reflect the change to BC Hot House Foods, Inc.'s weighted-average dumping margin. The revised ''all-others'' dumping margin is 24.04 percent.

We are issuing an amendment to our instructions directing the Customs Service to suspend liquidation on imports of subject merchandise. The suspension-of-liquidation instructions will remain in effect until further notice.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2)(A) of the Act provides that a final determination may be postponed until not later than 135 days after the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters which account for a significant proportion of exports of the subject merchandise. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On October 9, 2001, Red Zoo Marketing, Veg Gro Sales, Inc., J–D Marketing, Inc., Mastronardi Produce Ltd., and all Ontario companies subject to the ''all others'' rate (collectively referred to as the ''Ontario companies'') requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. On the same day the parties making this request also requested an extension of the provisional measures from a four-month period to not more than six months. See 19 CFR 351.201(e). According to Attachment III of the ''Selection of Respondents'' memorandum from Laurie Parkhill to Richard W. Moreland dated May 15, 2001, during 2000 the Ontario companies accounted for more than 60 percent of exports of tomatoes from Canada. For the reasons explained on page 2 of the same memorandum, we determine that these export statistics which we obtained from the Customs Service provide a reasonable basis for concluding that the Ontario companies account for a significant proportion of exports of the subject merchandise.

On October 11, 2001, BC Hot House Foods, Inc., filed a letter stating that it opposes postponement of the final determination. The respondent claims that its high preliminary dumping margin will adversely affect its suppliers' ability to obtain financing for the upcoming season, jeopardize commercial relationships with its customers, and make it difficult to coordinate marketing and planting strategies for next year. We do not find this to be a compelling reason for denying the extension requested by the Ontario companies because such concerns are not different from those faced by any of the other companies that we preliminarily determined to be making sales at less than fair value.

In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the respondents requesting the postponement account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the Ontario companies' request and are postponing the final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. Because February 17, 2002, is a Sunday, and February 18, 2002, is a federal holiday, we are postponing the final determination until no later than Tuesday, February 19, 2002. Suspension of liquidation, where applicable, will be extended accordingly.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission (ITC) of our amended preliminary determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of the preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than one week after the issuance of the Department's verification reports. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made, the hearing will be tentatively held three days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street

and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, by November 5, 2001. Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is issued and published in accordance with sections 733(f), 735(a)(2), and 777(i)(1) of the Act and 19 CFR 351.210(b)(2).

Dated: October 15, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–26538 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–820, A–533–823, and A–834–807]

Silicomanganese From Kazakhstan, India and Venezuela; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determinations in antidumping duty investigations.

SUMMARY: The Department of Commerce (the Department) is postponing the preliminary determinations in the antidumping duty investigations of silicomanganese from Kazakhstan, India, and Venezuela from October 15, 2001, until no later than November 2, 2001. This postponement is made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Jean Kemp (Kazakhstan), at (202) 482–4037, Sally Gannon (India), at (202) 482–0162, and Robert James (Venezuela), at (202) 482–0649, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Postponement of Due Date for Preliminary Determinations

On April 26, 2001, the Department initiated antidumping duty investigations of imports of silicomanganese from Kazakhstan, India, and Venezuela. The notice of initiation stated that we would issue our preliminary determinations no later than 140 days after the date of initiation. *See* 66 FR 22209 (May 3, 2001). On August 17, 2001, petitioners made a timely request pursuant to 19 CFR 351.205(e) for a 30-day postponement, pursuant to section 733(c)(1)(A) of the Act. On September 17, Universal Ferro & Allied Chemical, Ltd. from India submitted a request that the Department fully extend the preliminary determination because of the time constraints. On September 24, Kazchrome and Considar submitted a request that the Department determine that the investigation on silicomanganese from Kazakhstan was extraordinarily complicated and postpone the preliminary determination to the full extent possible. On August 31, 2001, in accordance with petitioners' request for a postponement, the Department postponed the preliminary determinations in these investigations for 30 days. *See* 66 FR 45964. Currently, the preliminary determinations in these investigations are due on October 15, 2001.

However, pursuant to section 733(c)(1)(B) of the Act, we have determined that these investigations are ''extraordinarily complicated'' and are therefore fully extending the due date for the preliminary determinations to no later than November 2, 2001.

Under section 733(c)(1)(B), the Department can extend the period for reaching a preliminary determination until not later than the 190th day after the date on which the administering authority initiates an investigation if:

(B) The administering authority concludes that the parties concerned are cooperating and determines that:

(i) The case is extraordinarily complicated by reason of:

(I) The number and complexity of the transactions to be investigated or adjustments to be considered;

(II) The novelty of the issues presented;

(III) The number of firms whose activities must be investigated; and

(ii) Additional time is necessary to make the preliminary determination.

Regarding the first requirement, we find that in each case all concerned parties are cooperating. Regarding the second requirement, we find that each of these four cases is extraordinarily complicated for the following reasons:

Kazakhstan

The Kazakhstani investigation is extraordinarily complicated because the Government of Kazakhstan and Transnational Co. Kazchrome and Aksu Ferroalloy Plant (''Kazchrome''), the producer, requested that the Department revoke Kazakhstan's non-market economy status or determine that the silicomanganese industry in Kazakhstan is a ''market oriented industry.'' In addition, Kazchrome claims it does not have knowledge of which of its export sales to Alloy 2000, a trading company, are destined to the United States. The Department is considering other complex issues such as the relationship between Considar, a U.S.-based selling agent, and Alloy 2000, as well as the appropriate date of sale.

India

The Indian investigation is extraordinarily complicated because of certain sales and cost issues including depreciation, date of sale, and cost of production. In addition, one of the companies is not represented by counsel. The Department has just sent out extensive supplemental questionnaires for each of the two companies, and we consider the information to be analyzed for these two companies within the time constraints of this investigation to be voluminous.

Venezuela

The Venezuelan investigation is extraordinarily complicated due to complex issues related to date of sale, cost of production, and affiliation.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: October 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–26448 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823]

Notice of Preliminary Determination of Critical Circumstances: Silicomanganese From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of critical circumstances; silicomanganese from India

EFFECTIVE DATE: October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Abdelali Elouaradia at (202) 482–0197 and (202) 482–1374, respectively; AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (2000).

Background

On May 3, 2001, the Department of Commerce (the Department) initiated an investigation to determine whether imports of silicomanganese from India are being, or are likely to be, sold in the United States at less than fair value (LTFV) (66 FR 22209, May 3, 2001). On June 11, 2001, the International Trade Commission (ITC) published its determination that there is a reasonable indication of material injury to the domestic industry from imports of silicomanganese from India. On July 16, 2001, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of silicomanganese from India. In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination. In a policy bulletin issued on October 8, 1998, the Department stated that it may issue a preliminary critical circumstances determination prior to the date of the preliminary determinations of sales at less than fair value, assuming sufficient evidence of critical circumstances is available (*see Policy Bulletin 98/4: Timing of Issuance of Critical Circumstances Determinations* (63 FR 55364)). In accordance with this policy, at this time we are issuing the preliminary critical circumstances decision in the investigation of silicomanganese from India for the reasons discussed below and in the concurrent *Memorandum from Elfi Blum through Sally Gannon to Barbara Tillman: Antidumping Duty Investigation of Silicomanganese from India-Preliminary Affirmative Determinations of Critical Circumstances,* dated October 4, 2001 (*Critical Circumstances Preliminary Determinations Memorandum*), on file in Import Administration's Central Records Unit (CRU), Room B–099, of the Department of Commerce building.

Critical Circumstances

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and, (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, § 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.'' Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above criteria have been satisfied, we examined: (1) The evidence presented by petitioners in their July 16, 2001 and September 7, 2001 letters; (2) exporter-specific shipment data requested by the Department on August 2, 2001; (3) United States Customs Service import statistics available after the initiation of the LTFV investigation; and, (4) the International Trade Commission (ITC) preliminary injury determinations.

History of Dumping

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. The Department's practice has been to rely on the existence of evidence that there is a history of dumping of subject merchandise from the country in question to either the United States or any other countries. *See Preliminary Determination of Critical Circumstances: Steel Concrete reinforcing Bars From Ukraine and Moldova,* 65 FR 70696 (November 27, 2000). In this case, we are not aware of any dumping order in any country on silicomanganese from India. For this reason, we do not find a history of injurious dumping of the subject merchandise from India pursuant to section 733(e)(1)(A)(i) of the Act.

Importer Knowledge

To determine whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling silicomanganese at LTFV, in accordance with section 733(e)(1)(ii) of the Act, the Department normally considers margins of 25 percent or more for EP sales sufficient to impute knowledge of dumping. *See, e.g., Preliminary Determination of Critical Circumstances: Certain Small Diameter Carbon and Alloy Steel Seamless Standard, Line and Pressure Pipe from the Czech Republic,* 65 FR 33803 (May 25, 2000). The Department normally bases its preliminary decision with respect to knowledge on the margins determined in the preliminary determination.

In this case, because we are issuing our preliminary critical circumstance

determination prior to our preliminary LTFV determination, the Department has relied on margin information provided in the petition to determine if there is a reasonable basis to believe or suspect that the importers knew or should have known that the subject merchandise was being sold at LTFV. In the petition, the estimated dumping margin, based on a comparison between adjusted U.S. price based on average unit value and price(s) in India, is 5.89 percent. The estimated dumping margin for price-to-constructed value (CV) comparisons is 86.98 percent. Because the highest estimated dumping margin calculated in the petition for India is greater than 25 percent, there is a reasonable basis to impute knowledge of dumping with respect to imports from this country. Therefore, we have imputed to importers knowledge of dumping of the subject merchandise from each of the two cooperating exporters and to importers of subject merchandise from all other producers/exporters in India.

Regarding knowledge of material injury by reason of the LTFV sales, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. In this case, the ITC has found that a reasonable indication of present material injury due to dumping exists for subject imports of silicomanganese from India. *See Silicomanganese From India, Kazakhstan, and Venezuela,* 66 FR 31258 (June 11, 2001). As a result, the Department has determined that there is a reasonable basis to believe or suspect that importers of silicomanganese from India from all exporters knew or should have known that there was likely to be material injury by reason of dumped imports of the subject merchandise from India, in accordance with section 733(e)(1)(ii) of the Act.

Massive Imports

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volume of the subject merchandise for three months immediately preceding the filing of the petition (*i.e.*, the base period), to the import volume of subject merchandise in the three months following the filing of the petition (*i.e.*, the comparison period). However, as stated in § 351.206(i) of the Department's regulations, if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

In the Critical Circumstances Allegation submitted on July 16, 2001, petitioners cite an industry publication to document that importers, exporters and producers had reason to believe that a proceeding was likely prior to the filing of the petition on April 6, 2001. Petitioners state that, on March 8, 2001, a month before filing the petition, Eramet (a petitioner) issued a press release confirming that it intended to file an antidumping petition covering imports of silicomanganese. This intent was discussed in an industry publication, ''Ryan's Notes,'' on March 12, 2001, which specified India as a likely target. On March 5, 2001, the same industry publication had already reported that petitioner ''was on the verge of launching a dumping case.'' (*See* ''Ryan's Notes,'' March 5, 2001, p. 5.) According to petitioners, numerous other articles in other industry publications demonstrate that, in early March 2001, importers and exporters of Indian silicomanganese had reason to believe that an antidumping petition covering India was likely. We examined the sources cited by petitioners to determine whether they provide a basis for inferring knowledge that a proceeding was likely. We find that such industry publications, particularly the one cited above, are sufficient to establish that, by early March 2001, importers, exporters, and producers knew or should have known that a proceeding was likely concerning silicomanganese from India.

With regard to the issue of massive imports, in accordance with our current practice (*see Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon-Quality Steel Products From Brazil,* 65 FR 5554 (February 4, 2000)), we first considered the shipment data reported by the mandatory respondents for the base and comparison periods (October 2000 through February 2001 and March 2001 through July 2001, respectively). We found massive imports for one respondent, Universal Ferro & Allied Chemicals (Universal Ferro), based on an increase in imports exceeding the required 15 percent, but no massive imports for the other respondent, Nava Bharat Ferro Alloys (Nava Bharat).

With respect to the ''all others'' category, we considered the fact that we found massive imports for one of the investigated exporters but not the other. We also considered whether U.S. Customs Service data, as available on the International Trade Commission's Dataweb, would permit the Department to analyze imports of subject merchandise. The U.S. Customs import data does include low-carbon silicomanganese, which is excluded from the scope. However, the PIERS information submitted by petitioners indicates that low-carbon imports make up a low percentage of total imports. Thus, we believe it is appropriate to use the aggregate import data in our analysis of whether there have been massive imports from ''all others.'' This data shows massive imports of the subject merchandise from India. Even if we were to subtract the shipment data provided by the two respondents from the aggregate data and to compare the remaining volume of imports in the base period to the remaining imports in the comparison period, this would indicate that massive imports occurred. *See Memorandum to Barbara Tillman through Sally Gannon from Elfi Blum: Antidumping Duty Investigation of Silicomanganese from India-Preliminary Affirmative and Negative Determinations of Critical Circumstances,* dated October 4, 2001 (*Critical Circumstances Memorandum*). Therefore, we find that there is a reasonable basis to believe or suspect that there were massive imports from ''all others.''

Conclusion

Given the above-referenced analysis, we preliminarily determine that critical circumstances exist for Universal Ferro and for companies in the ''all others'' category, but not for Nava Bharat.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, if the Department issues an affirmative preliminary determination of sales at LTFV in the investigation with respect to Universal Ferro or the ''all others'' category, the Department, at that time, will direct Customs to suspend liquidation of all entries of silicomanganese from India from these exporters that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination of sales at LTFV. Customs shall require a cash

deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determination of sales at LTFV published in the **Federal Register**. The suspension of liquidation to be issued after our preliminary determination of sales at LTFV will remain in effect until further notice.

Final Critical Circumstances Determination

We will make a final determination concerning critical circumstances for India when we make our final determination regarding sales at LTFV in the investigation, which will be 75 days (unless extended) after the preliminary LTFV determination.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–26449 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[I.D. 101501C]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Processed Products Family of Forms.

Form Number(s): NOAA Forms 88–13 and 88–13c.

OMB Approval Number: 0648–0018.

Type of Request: Regular submission.

Burden Hours: 680.

Number of Respondents: 1.320.

Average Hours Per Response: 30 minutes for a NOAA Form 88–13; 15 minutes for a NOAA Form 88–13c.

Needs and Uses: This is a survey of seafood and industrial fishing processing firms. Firms processing fish from certain fisheries must report on their annual volume, the value of products, and monthly employment figures. Data are used in economic analyses to estimate the capacity and extent to which processors utilize domestic harvest. These analyses are necessary to carry out the provision of the Magnuson-Stevens Fishery Conservation and Management Act.

Affected Public: Business and other for-profit organizations.

Frequency: Annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: October 11, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–26452 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 101501D]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southwest Region Vessel Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0361.

Type of Request: Regular submission.

Burden Hours: 286.

Number of Respondents: 356.

Average Hours Per Response: 45 minutes for all but purse seine vessels; 75 minutes for purse seine vessels.

Needs and Uses: Vessels in certain federally-regulated fisheries off the West Coast or in the Western Pacific are required to display the vessel's official number in three locations. Purse seine vessels in the South Pacific are required to display their international radio call sign in three locations and on any helicopter or skiff. The requirement is necessary to aid enforcement of fishery regulations.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Third party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: October 12, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–26453 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101201C]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Oversight Committee in November, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Tuesday, November 6, 2001, at 5:30 p.m.

ADDRESSES: The meeting will be held at the Tavern on the Harbor, 30 Western Ave., Gloucester, MA 01930; telephone: (978) 283–4200.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New

England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review alternatives for designating essential fish habitat for deep-sea red crab, to be incorporated in the proposed Red Crab Fishery Management Plan. The Committee may select preferred alternatives to recommend to the full Council.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice 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 final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 15, 2001.

Richard W. Surdi,

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

[FR Doc. 01–26456 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101201B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Oversight and Skate Oversight Committees in November 2001 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on November 5, 2001. The Monkfish Oversight Committee will meet at 9:30 a.m. The Skate Oversight Committee will meet from 6 p.m. to 8 p.m.

ADDRESSES: The meetings will be held at the King's Grant Inn, Trask Road, Route 128, Danvers, MA 01923; telephone: (978) 774–6800.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: Meeting Agendas The Monkfish Oversight Committee will review the Stock Assessment and Fishery Evaluation (SAFE) Report for 2000, incorporating the Monkfish Monitoring Committee Report. Based on this review, the committee will develop recommendations to the Council for adjustments to the Monkfish Fishery Management Plan (FMP) for the 2002 fishing year, in accordance with the framework adjustment procedures in the FMP. Options under consideration include, but are not limited to: taking no action and allowing the Year 4 default measures to take effect (eliminating the directed fishery); postponing for one year the Year 4 default measures and adjusting trip limits to achieve current landings levels after accounting for the effect of the recent court decision eliminating gear-based differential trip limits; and, adjusting management measures to reduce catches to the Years 2 and 3 total allowable catch (TAC) targets. The committee will also develop recommendations to the Council for research priorities under cooperative programs with the industry. At the end of the meeting the committee will hold a closed session to review applications and make recommendations for membership on the Monkfish Advisory Panel.

The Skate Oversight Committee will review guidance on skate overfishing definitions from the Council's Scientific and Statistical Committee and the Skate Plan Development Team. They will also develop recommendations as to which overfishing definition alternatives should be fully analyzed for the Draft Environmental Impact Statement (DEIS) and public hearing document. They will also review a timeline for DEIS development.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice 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 final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (*see* **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 15, 2001.

Richard W. Surdi,

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

[FR Doc. 01–26457 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100101A]

Marine Mammals; Pinniped Removal Authority

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

ACTION: Proposed extension of a Letter of Authorization (LOA) and request for comments.

SUMMARY: NMFS solicits public comments on a request from the State of Washington and a proposal by NMFS to extend, for 5 years, an LOA for the lethal removal of individually identifiable California sea lions that are having a significant negative impact on the status and recovery of winter steelhead that migrate through the Ballard Locks in Seattle, WA. No changes to the existing terms and conditions of the authorization are proposed beyond extension of the expiration date to June 30, 2006. This action is authorized under the Marine Mammal Protection Act (MMPA).

DATES: Comments must be received on or before November 19, 2001.

ADDRESSES: Comments on this action should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232. Comments will not be accepted if submitted via email or the Internet. However, comments may be sent via fax to (503) 230–5435.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region,

(503) 231–2005, or Tom Eagle, NMFS, Office of Protected Resources, (301) 713–2322 ext. 105.

SUPPLEMENTARY INFORMATION:

Electronic Access

Additional information, including the State's LOA extension request, prior Environmental Assessments, and the current LOA, is available via the internet at *http://www.nwr.noaa.gov*.

Background

Pursuant to section 120 (b) of the MMPA, the State of Washington submitted an application to NMFS on June 30, 1994, requesting consideration of lethal removal of California sea lions at the Ballard Locks in Seattle, WA. In response to the application, NMFS formed the Ballard Locks Pinniped-Fisheries Interaction Task Force (Task Force). The Task Force met in late 1994, reviewed the available information and recommended approval of lethal removal with conditions. NMFS took the recommendations of the Task Force and public comments into consideration when it issued the initial 3–year LOA to the Washington Department of Fish and Wildlife (WDFW) on January 5, 1995.

As required by section 120, the Task Force reconvened in late 1995 to evaluate the effectiveness of the permitted lethal taking or alternative actions and recommended modifications to the terms and conditions of the LOA. The LOA was modified in 1996 and subsequently extended through June 30, 2001. No lethal removals were conducted during the period of the current LOA.

Information on Washington's original application for lethal removal, the process for considering the application, which included formation of a Pinniped-Fishery Interaction Task Force, the Terms and Conditions of the LOA issued to WDFW and its subsequent extension was published in the **Federal Register** on August 2, 1994 (59 FR 39325), September 27, 1994 (59 FR 49234), January 19, 1995 (60 FR 3841), August 15, 1995 (60 FR 42146), March 26, 1996 (61 FR 13153), August 26, 1996 (61 FR 43737), June 19, 1997 (62 FR 33396), and September 29, 1997 (62 FR 50903). Background information on the sea-lion steelhead conflict at the Ballard Locks and findings on the environmental consequences of issuance of the LOA are provided in two Environmental Assessments prepared by NMFS in 1995 and 1996 (see Electronic Access).

At the request of WDFW, NMFS granted a temporary extension of the LOA expiration date from June 30, 2001, to December 15, 2001, to allow time for the State to prepare, and NMFS to process, a formal request to extend the existing LOA. Under the terms and conditions of the LOA, which authorized lethal removal only during the steelhead migration period (January through May) no sea lions may be lethally removed during the temporary extension.

In a letter dated September 12, 2001, the State of Washington requested an extension of the LOA for an additional 5 years (with a new expiration date of June 30, 2006). The State's request cites severely depressed steelhead run returns (42 fish returned to spawn in 2001) and the need to quickly remove any sea lion that meets the criteria outlined in the LOA while the State continues management efforts to recover the run. In addition, the State noted that there are no lethal removals planned at this time and requested the authorization be extended so that, as a last resort, it can respond in a timely manner to uncontrollable sea lion predation and protect steelhead as the run recovers. The State requests no modifications to the terms and conditions of the LOA other than the extension to June 30, 2006. Copies of the request for extension are available (see Electronic Access).

The Task Force last met in 1996 to consider an earlier extension request by the State, and it submitted a report to NMFS that recommended that the LOA be extended, if so requested by the State, until such time as (a) the escapement goal of 1600 steelhead is reached or (b) it becomes clear that the process is unlikely to achieve the stated goal. At that time, the Task Force opinions on the extension ranged from ''no extension'' to ''an extension period of 8 years (two steelhead life cycles)'', with the majority favoring 4 years. The Task Force indicated that extending the LOA would provide needed time to enable an evaluation of the effectiveness of lethal or non-lethal but permanent removal on subsequent steelhead returns when they have recovered to abundances that previously attracted predatory sea lions. At the completion of their deliberations, the Task Force adjourned until such time as substantive new information and analysis become available that may alter its recommendation. Copies of the Task Force report and recommendations are available (see Electronic Access). The State's extension request indicates that,since the Task Force last met, conditions at the Locks have remained virtually unchanged (i.e., no sea lions have been lethally removed, no new individually identifiable sea lions have been added to the list of predatory sea lions to be removed, the steelhead run has not recovered, and efforts to recover the run are continuing.) The MMPA requires NMFS to consider the recommendations of the Task Force when determining whether to issue a lethal removal authorization. In order to obtain the Task Force's views regarding this extension of the previously issued LOA in light of its decision to adjourn pending significant new data or analysis, NMFS is consulting with Task Force members by mail during the 30-day public comment period.

NMFS is seeking public comments on the proposal to extend the LOA for a period of 5 years. After considering public comments and advice from Task Force members, NMFS will publish notice of its final decision in the **Federal Register**.

The environmental consequences of extending the existing LOA as requested, without further modification of the terms and conditions, are expected to be the same as those previously assessed. Nonetheless, NMFS will conduct an environmental analysis on the proposed 5–year extension as required by the National Environmental Policy Act.

Dated: October 15, 2001.

Wanda L. Cain,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–26450 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Disclosure Document Program

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 18, 2001.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of Data Management, Data Administration Division, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231; by telephone 703–308–7400; by e-mail at *susan.brown@uspto.gov;* or by facsimile at 703–308–7400.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Robert J. Spar, Office of Patent Legal Administration, United States Patent and Trademark Office (USPTO), Washington, DC 20231; by telephone at 703–305–9285.

SUPPLEMENTARY INFORMATION:

I. Abstract

A service provided by the USPTO is the acceptance and preservation for two years of a ''disclosure document'' as evidence of the date of conception of an invention. A disclosure document is a paper disclosing an invention, signed by the inventor or inventors, and submitted to the USPTO. The document should contain a clear and complete explanation of the manner and process of making and using the invention in sufficient detail to enable a person having ordinary knowledge in the field of the invention to make and use the invention. The disclosure document request must be accompanied by a separate signed cover letter stating that it is submitted by, or on behalf of, the inventor, and requesting that the material be received into the Disclosure Document Program.

The disclosure document will be preserved by the USPTO for two years after its receipt, and then destroyed unless it is referred to in a separate letter in a related patent application filed within the two year period. The disclosure document is not a patent application, and the date of its receipt in the USPTO will not become the effective filing date of any patent application subsequently filed.

The information supplied to the USPTO by an applicant seeking to prove the date of conception for an invention is used by the USPTO to establish evidence of the date of conception of an invention.

II. Method of Collection

By mail, facsimile, or hand carried to the USPTO when the inventor desires to participate in the Disclosure Document Program.

III. Data

OMB Number: 0651–0030.

Form Number(s): PTO/SB/95.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 20,250 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 12 minutes, depending upon the complexity of the situation, to gather, prepare, and submit a disclosure document deposit request. There is one form associated with this information collection, Form PTO/SB/95.

Estimated Total Annual Respondent Burden Hours: 4,050 hours per year.

Estimated Total Annual Respondent Cost Burden: Using the professional hourly rate of $252 per hour for associate attorneys in private firms, the USPTO estimates $1,020,600 per year for salary costs associated with respondents.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Disclosure Document Deposit Request	12 minutes	20,250	4,050
Total		202,250	4,050

Estimated Total Annual Nonhour Respondent Cost Burden: $202,500.00. (There are no capital start-up or maintenance costs associated with this information collection.)

There is annual nonhour cost burden in the way of a filing fee associated with this collection. The filing fee related to this collection is considered part of the nonhour cost burden of the collection.

Following is a chart listing this filing fee/nonhour cost burden. The total annual filing fee/nonhour cost burden is $202,500.00.

Item	Responses (a)	Filing fee ($)(b)	Total non-hour cost burden (a) × (b)
Disclosure Document Deposit Request	20,250	$10.00	$202,500.00
Total	20,250	10.00	202,500.00

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: October 12, 2001.

Thao Nguyen,

Acting Records Officer, USPTO, Office of Data Management, Data Administration Division.

[FR Doc. 01–26326 Filed 10–18–01; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Assessment and Finding of No Significant Impact for BRAC 95 Disposal and Reuse of Camp Bonneville, WA

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with Public Law 101–510 (as amended), the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended the closure of Camp Bonneville, Washington.

The Final Environmental Assessment (EA) evaluates the environmental impacts of the disposal and subsequent reuse of the 3,020-acre installation. Alternatives examined in the EA include encumbered disposal of the property, unencumbered disposal of the property, and no action. Encumbered disposal refers to transfer or conveyance of property having restrictions on subsequent use as a result of any Army imposed or legal restraint. Under the no action alternative, the Army would not dispose of property but would maintain it in caretaker status for an indefinite period.

DATES: Comments must be submitted on or before November 19, 2001.

ADDRESSES: A copy of the EA may be obtained by writing to Mr. Ken Brunner, U.S. Army Corps of Engineers, Seattle District (ATTN: CENWS–ED–TB–ER), 4735 East Marginal Way South, Seattle, WA 98124–2255.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Brunner by fax at (206) 764–4470.

SUPPLEMENTARY INFORMATION: While disposal of Camp Bonneville is the Army's primary action, the EA also analyzes the potential environmental effects of reuse as a secondary action by means of evaluating intensity-based reuse scenarios. The Army's preferred alternative for disposal of Camp Bonneville property is encumbered disposal, with encumbrances pertaining to the possible presence of unexploded ordnance, lead-based paint and asbestos-containing material, protection of wetlands and compliance with the Endangered Species Act, as well as the requirement for a right of reentry for environmental clean-up.

A Notice of Intent (NOI) declaring the Army's intent to prepare an EA for the disposal and reuse of Camp Bonneville was published in the **Federal Register** (60 FR 49264, September 22, 1995).

The Army will consider comments received on this EA prior to initiating any action.

The Final EA and Finding of No Significant Impact are available for review at the Vancouver, Washington Public Library.

Dated: October 12, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 01–26434 Filed 10–18–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 19, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 15, 2001

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Educational Longitudinal Study of 2002 (ELS:2002).

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 46,539.

Burden Hours: 54,102.

Abstract: Full-scale study in Spring, 2002 in 800 schools in all 50 states and the District of Columbia. Data collection from students, teachers, administrators and library media center specialists. Data collection will constitute the baseline of a longitudinal study of school effectiveness and impact on postsecondary and labor market outcomes. A field test was conducted in Spring, 2001.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–26338 Filed 10–18–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–6–000]

Colorado Interstate Gas Company; Notice of Application

October 15, 2001.

Take notice that on October 5, 2001, Colorado Interstate Gas Company (CIG), a Delaware corporation, Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP02–6–000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's Regulations (Commission), for a certificate of public convenience and necessity authorizing CIG to construct certain pipeline facilities and miscellaneous appurtenant facilities and to operate them in interstate commerce as a part of CIG's existing interstate transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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).

CIG states that this project, in its entirety, will be referred to as the ''Raton Basin 2002 Expansion Project.'' CIG states that it proposes to construct and operate facilities necessary to transport additional volumes of approximately 57.8 MMcf (55 MDth) per day of natural gas out of the Raton Basin Area in Colorado and New Mexico. In addition, CIG states that it proposes to construct and operate facilities south of its Keyes Compressor Station to allow Raton Basin shippers to deliver incremental quantities of gas to interconnections with the interstate pipeline systems of El Paso Natural Gas Company and Northern Natural Gas Company. To accomplish this, CIG states that it proposes to construct the following facilities:

(1) 25.61 miles of 16-inch O.D. pipeline loop of CIG's existing Campo Lateral; this loop line would extend from the outlet of CIG's Trinidad Compressor Station in Section 25, Township 32 South, Range 63 West to a point 3,590 feet east of County Road 129 in Section 24, Township 33 South, Range 59 West, all in Las Animas County, Colorado.

(2) 28.14 miles of 16-inch O.D. pipeline loop of CIG's existing Campo Lateral; this loop line would extend from the outlet of CIG's Kim Compressor Station in Section 31, Township 32 South, Range 54 West, Las Animas County, Colorado to the Harrison/USA 2 track in Section 26, Township 32 South, Range 50 West, Baca County, Colorado;

(3) 14.40 miles of 20-inch O.D. pipeline loop of CIG's existing Line 3A; this loop line would extend from the outlet of CIG's Keyes Compressor Station in Section 17, Township 5 North, Range 7 East to County Road E0210 in Section 20, Township 3 North, Range 8 East, all in Cimarron County, Oklahoma.

CIG states that the Campo Lateral loop line segments will increase the take-away capacity from the Raton Basin Area by approximately 57.8 MMcf (55 MDth) per day. CIG further states that the Line 3A loop line will facilitate the delivery of incremental volumes to points on the southern end of its transmission system.

In addition to the facilities proposed in the instant application, CIG states that it will undertake the replacement of meter facilities at the Baker and Dumas Meter Stations, pursuant to its blanket certificate authority, to accommodate the delivery of incremental volumes from the Raton Basin Area.

CIG states that it conducted an open season in July 2000 which resulted in long term contracts for incremental capacity of 85 MDth per day. These contract quantities are being accommodated through a recently completed expansion project pursuant to authorization granted in Docket No. CP00–452–000. CIG further states that this open season produced contracts for an additional 55 MDth per day of incremental capacity to accommodate future development of reserves in the Raton Basin Area. Finally, CIG states that it held an open season in July 2001 which produced no requests for additional capacity out of the Raton Basin Area. Thus, CIG states that the facilities proposed herein are designed solely to accommodate the incremental 55 MDth per day of capacity resulting from the July 2000 open season.

CIG states that the total cost of the proposed facilities for the Raton 2002 Expansion Project is $26,896,800. The combination of existing and incremental entitlements represent 100 percent of CIG's capacity out of the Raton Basin Area through the Campo Lateral. CIG is proposing rolled-in treatment for the expansion out of the Raton Basin Area.

Any questions regarding this application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, at (719) 520–3788, Colorado Interstate Gas Company, Post Office Box 1087, Colorado Springs, Colorado 80944.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November 5, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–26376 Filed 10–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Amend License, and Soliciting Comments, Motions To Intervene, and Protests

October 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License for the Transmission Line Route.

b. *Project No:* 6641–046.

c. *Date Filed:* July 13, 2001.

d. *Applicant:* City of Marion, Kentucky, and Smithland Hydroelectric Partners.

e. *Name of Project:* Smithland Lock and Dam Project.

f. *Location:* The Project is located on the Ohio River in Livingston County, Kentucky. The project will affect federal lands at the U.S. Army Corps of Engineers' Smithland Lock and Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James Price, 120 Calumet Court, Aiken, SC 29803, (803) 642–2749.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Mohamad Fayyad at (202) 219–2665 or *mohamad.fayyad@ferc.fed.us*.

j. *Deadline for filing comments and/or motions:* (November 19, 2001).

Please include the project number (P–6641–046) on any comments or motions filed.

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.

k. *Description of Filing:* The City of Marion, Kentucky, and Smithland Hydroelectric Partners propose a revised route for the project's 161-kV transmission line. The currently approved (but not constructed yet) transmission line route extends about 8.7 miles from the project's dam to an existing transmission line of Louisville Gas and Electric Energy Company (LGEE). Now the licensee proposes a route that proceeds from the project's dam for 11 miles to LGEE's Livingston County substation, just west of the Cumberland River. This proposed transmission line route would require the clearing of about 35 acres of woods.

l. *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 20426, or by calling (202) 208–1371. This filing may also be viewed on the web at *http://www.ferc.gov.html* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

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.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–26377 Filed 10–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

October 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12112–000.

c. *Date filed:* September 4, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Vanadium Project.

f. *Location:* On Big Bear Creek, in San Miguel County, Colorado. The project would utilize land administered by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/efi/doorbell.htm*. Please include the project number (P–12112–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Project: The proposed project would consist of: (1) A proposed 75-foot-long, 10-foot-high dam with a negligible impoundment, (2) a proposed 12,000-foot-long, 30-inch-diameter steel penstock, (3) a proposed powerhouse containing four generating units having an installed capacity of 13.6 MW, (4) a proposed tailrace, (5) a proposed 4-mile-long, 25 kV Transmission line, and (5) appurtenant facilities.

The project would have an annual generation of 58.4 GWh that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202)208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–26378 Filed 10–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

October 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12058–000.

c. *Date filed:* June 22, 2001.

d. *Applicant:* Baker County, Oregon.

e. *Name of Project:* Mason Dam Project.

f. *Location:* On the Powder River, in Baker County, Oregon. The proposed

project would utilize the existing Bureau of Reclamation's existing Mason Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brian D. Cole, Chair, Baker County Board of Commissioners, 1995 Third Street, Baker City, OR 97814, (541) 523–8200.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/efi/doorbell.htm.* Please include the project number (P–12058–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Competing Application: Project No. 11899–000, Date Filed: March 2, 2001, Date Notice Closed: May 25, 2001.

l. Description of Project: The proposed project using the Bureau of Reclamation's Mason dam and impoundment would consist of: (1) An existing 1320-foot-long, 56-inch-diameter which reduces to a 33-inch-diameter steel penstock, (2) a proposed powerhouse containing one generating unit having an installed capacity of 3 MW, (3) a proposed 0.5-mile-long, 25 kV transmission line, and (4) appurtenant facilities.

The project would have an annual generation of 14 GWh that would be sold to a local utility.

m. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

n. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. 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.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. 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. 01–26379 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

October 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12098–000.

c. *Date filed:* July 30, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Scofield Reservoir Project.

f. *Location:* On the Price River, in Sanpete County, Utah. Scofield Reservoir Dam is owned by the U.S. Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P. O. Box 535, Rigby, ID 83442, (208) 745–8630.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. Deadline for filing motions to intervene, protests and comments: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and

protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/efi/doorbell.htm.* Please include the project number (P–12098–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Project: The proposed project using the Scofield Dam and Reservoir would consist of: (1) A proposed 300-foot-long, 60-inch-diameter steel penstock, (2) a proposed Powerhouse containing one generating unit having an installed capacity of 1.3 MW, (3) a proposed 1-mile-long, 15 kV transmission line, and (4) appurtenant Facilities.

The project would have an annual generation of 11.38 GWh that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202)208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–26380 Filed 10–18–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6622–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed October 15, 2001 Through October 19, 2001

Pursuant to 40 CFR 1506.9:

EIS No. 010385, Final Supplement, AFS, CO, Sheep Flats Diversity Unit, Timber Sales and Related Road Construction, Grand Mesa, Uncompahgre and Gunnison National Forests, Collbran Ranger District, Mesa County, CO, Wait Period Ends: November 19, 2001, Contact: Carol McKenzie (970) 874–6618.

EIS No. 010386, Draft EIS, AFS, MT, Game Range Project, To Improve Ecosystem Health and Productivity, Reduce Fuel Loading and Big Game Winter Range Condition, Lolo National Forest, Plain/Thompson Falls Ranger District, From Thompson River To Squaw Creek, Thompson Falls, MT, Comment Period Ends : December 3, 2001, Contact: Frank Yurczyk (406) 826–4313.

EIS No. 010387, Draft EIS, FHW, DC, NC, VA, Southeast High Speed Rail Corridor, From Washington, D.C. to Charlotte, NC, To Provide a

Competitive Transportation Choice to Traveler, Funding and Federal Permits, DC and NC, Comment Period Ends: December 3, 2001, Contact: Nicholas L. Graf (919) 856–4346.

EIS No. 010388, Final EIS, AFS, MT, Burned Area Recovery, Proposal to Reduce Fuels, Improve Watershed Conditions and Reforest Burned Lands, Sula, Darby, West Fork and Stevensville Ranger Districts, Bitterroot National Forest, Ravalli County, MT, Comment Period Ends: November 19, 2001, Contact: Spike Thompson (406) 363–7100. This document is available on the Internet at: http://www.fs.fed.us/rl/bitterroot.

EIS No. 010389, Draft Supplemental, FHW, WV, VA, Appalachians Corridor H, To Construct a 16-mile Highway Between Kerens to Parsons, Battlefield Avoidance, Randolph and Tucker Counties, WV, Comment Period Ends Due: December 3, 2001, Contact: Thomas J. Smith (304) 347–5928.

Amended Notices

EIS No. 010326, Draft EIS, APH, Programmatic EIS—Rangeland Grasshopper and Mormon Cricket Suppression Program, Authorization, Funding and Implementation in 17 Western States, AZ, CA, CO. ID, KS, MT, NB, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY , Due: November 14, 2001, Contact: Charles L. Brown (301) 734–8247. This document is available on Internet at: *http://www.aphis.usda.gov/ppd/es/ppqdocs.html.* Revision of FR Notice Published on 8/31/2001: CEQ Comment Period Ending 10/15/2001 has been extended to 11/14/2001.

Dated: October 16, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–26422 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6622–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (97 FR 27647).

Final EISs

ERP No. F–BLM–J01077–WY North Jacobs Ranch Coal Lease Application (WYW 146744), Federal Coal Tract, Located in the Powder River Basin, Campbell County, WY.

Summary: EPA continues to express concerns about NO2 air emissions from blasting mine overburden and a lack of site specific N02 data. EPA supports BLM's decision to group future Powder River Basin coal leases into one EIS.

ERP No. F–CDB–K81026–CA West Hollywood Gateway Public/Private Partnership Construction Project, Multi-Story Office, Retail, Restaurant and Entertainment Use Development, Community Development Block Grant (CDBG) Funds Issuance, City of West Hollywood, Los Angeles County, CA.

Summary: EPA determined that the document adequately addresses the issues raised in our comment letter on the DEIS.

ERP No. F–TVA–E05098–TN, Addition of Electric Generation Baseload Capacity, Proposes to Construct a Natural Gas Fired Combined Cycle Power Plant, Franklin County, TN.

Summary: While most impacts have been mitigated, EPA still expressed concern regarding noise impacts and suggested that the ROD provide noise mitigation measures that would be implemented as needed on follow-up monitoring.

Dated: October 16, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–26423 Filed 10–18–01; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 47]

Agency Information Collection Activities; Proposed Collection: Comment Request

AGENCY: Export-Import Bank of the United States (Ex-Im Bank).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 the Export-Import Bank of the United States will be submitting to the Office of Management and Budget (OMB) a request to review and approve a revised exporter and banker survey. The purpose of the survey is to fulfill a statutory mandate (the Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635) which directs Ex-Im Bank to report annually to the U.S. Congress any action taken toward providing export credit programs that are competitive with those offered by official foreign export credit agencies. The Act further stipulates that the annual report on competitiveness should include the results of a survey of U.S. exporters and U.S. commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with U.S. exporters.

Accordingly, Ex-Im Bank is requesting that the proposed survey (EIB No. 00–02) be sent to approximately 50 respondents, split equally between bankers and exporters. The revised survey is similar to the previous survey, as it asks bankers and exporters to evaluate the competitiveness of Ex-Im Bank's programs vis-á-vis foreign export credit agencies. However, it has been modified in order to account for newer policies and to capture enough information to provide a better analysis of our competitiveness. In addition, the survey will be administered electronically via email, with recipients encouraged to respond electronically as well.

DATES: Written comments should be received on or before December 18, 2001, to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Carlista D. Robinson, 811 Vermont Avenue, NW., Room 764, Washington, DC 20571, (202) 565–3351.

SUPPLEMENTARY INFORMATION: With respect to the proposed collection of information, Ex-Im Bank invites comments as to—

—Whether the proposed collection of information is necessary for the proper performance of the functions of Ex-Im Bank, including whether the information will have a practical use;

—The accuracy of Ex-Im Bank's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Ways to enhance the quality, usefulness and clarity of the information to be collected; and

—Ways to minimize the burden of 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.

Title & Form Number: 2001 Exporter & Banker Survey of Ex-Im Bank Competitiveness, EIB Form 00–02.

OMB Number: 3048–0004.

Type of Review: Revision of a currently approved collection.

Annual Number of Respondents: 50.

Annual Burden Hours: 50.

Frequency of Reporting or Use: Annual survey.

Dated: October 16, 2001.

Carlista D. Robinson,

Agency Clearance Officer.

[FR Doc. 01–26383 Filed 10–18–01; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

October 10, 2001.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 19, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0652.

Title: Section 76.309, Customer Service Obligations; Section 76.1602, Customer Service—General Information; Section 76.1603, Customer Service—Rate and Service Changes; and Section 76.1619, Information on Subscriber Bills.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, local, or tribal government.

Number of Respondents: 10,410.

Estimated Time per Response: 10 mins. to 1 hr.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 32,527 hrs.

Total Annual Costs: None.

Needs and Uses: FCC rules under 47 CFR 76.309 and 76.1603 set forth various customer service obligations and notification requirements for changes in subscriber rates, programming services, and channel positions. 47 CFR 76.1602 requires each local franchise authority (LFA) to provide affected cable operators with 90 days written notice of its intent to enforce customer service standards. Cable operators must inform subscribers in writing of their right to file complaints about service and programming changes. 47 CFR 76.1603 requires cable companies to notify customers in writing within 30 days of any changes in rates and programming services. In addition, cable companies are required to notify subscribers and LFAs within 30 days prior to any rate or service changes. 47 CFR 76.1619 requires cable operators to respond to a written complaint regarding any subscriber's billing dispute within 30 days and also sets forth requirements for information on subscriber bills.

OMB Control Number: 3060–0667.

Title: Section 76.630, Compatibility with Consumer Electronic Equipment; Section 76.1621, Equipment Compatibility Offer; and Section 76.1622, Consumer Education of Equipment Compatibility.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 10,400.

Estimated Time per Response: 1 to 20 hrs.

Frequency of Response: On occasion and annual reporting requirements; Third party disclosure.

Total Annual Burden: 10,435 hrs.

Total Annual Costs: $5,275.

Needs and Uses: FCC Rules under 47 CFR 76.630(a) prohibit cable system operators from scrambling or otherwise encrypting signals carried on the basic service tier, unless granted a waiver by the FCC. 47 CFR 76.1621 requires cable system operators that use scrambling, encryption, or similar techniques to offer subscribers special equipment to enable the simultaneous reception of multiple signals. 47 CFR 76.1622 requires cable system operators to provide a consumer education program on compatibility matters to their subscribers in writing when they first subscribe and at least once a year thereafter.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–26375 Filed 10–18–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, October 23, 2001, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum re: BIF Assessment Rates for the First Semiannual Assessment Period of 2002.

Memorandum re: SAIF Assessment Rates for the First Semiannual Assessment Period of 2002.

Memorandum and resolution re: Final Rule—Engaged in the Business of Receiving Deposits Other Than Trust Funds.

Memorandum and resolution re: Final Rule to Revise the Regulatory Capital Treatment of Recourse, Direct Credit Substitutes, and Residual Interests in Asset Securitizations.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: October 16, 2001.
Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–26507 Filed 10–17–01; 10:12 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 revised information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the collection requirements for participation in the National Flood Insurance Program (NFIP) Community Rating System (CRS).

SUPPLEMENTARY INFORMATION: The NFIP began in 1968. A central element in the NFIP is the promotion and implementation of a sound local floodplain management program. Communities must adopt minimum floodplain management standards in order to participate in the NFIP and receive the benefits of flood insurance. The Community Rating System (CRS) was designed by FEMA to encourage, through the use of flood insurance premium discounts, communities and states to undertake activities that will mitigate flooding and flood damage, beyond the minimum standards for NFIP participation. The National Flood Insurance Reform Act of 1994 codified the CRS.

The NFIP/CRS Coordinator's Manual includes a Schedule and Commentary. The Application Worksheets and CRS Application are published separately. Communities will use the manuals to apply for activity points leading up to a CRS rating and commensurate flood insurance premium discounts. The Schedule describes the floodplain management and insurance activities available to qualifying communities that undertake the selected additional activities that will reduce flood losses. To apply, communities submit to FEMA the attached application worksheets and requisite documentation. Once approved, the applications are reviewed and field verified by Insurance Service Organization (ISO), Inc., an insurance industry service organization with varied experience, especially with community fire rating.

Collection of Information

Title: Community Rating System (CRS) Program—Application Policy, Instructions, and Worksheets.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0195.

Document Numbers: FEMA FIA 15 and 15A.

Abstract: The CRS Program establishes a system for FEMA to grade communities' floodplain management activities to determine flood insurance rates for communities. Communities exercising floodplain management activities that exceed Federal minimum standards qualify for lower insurance rates.

The January 1999 edition of the NFIP CRS Coordinator's Manual contains instructions for preparing the application worksheets that were used to apply to the CRS Program for the 1999 through 2001 calendar years. We are coordinating with the public the draft January 2002 edition for comments on the collections of information and all approved comments will be incorporated into the final January 2002 manual, to be effective January 2002–December 2004. The Application Worksheets and CRS Application are published separately. Communities will use the manuals to apply for activity points leading up to a CRS rating and commensurate flood insurance premium discounts. The Schedule describes the floodplain management and insurance activities available to qualifying communities that undertake the selected additional activities that will reduce flood losses. Annually, all CRS participating communities must certify they are maintaining the activities for which they receive credit.

Affected Public: State, Local, or Tribal Government.

Estimated Total Annual Burden Hours. 9,260.

Application worksheets	Number of respondents (A)	Frequency response (B)	Hours per response (C)	Annual burden hours (A × B × C)
New, Modified and Cycle Applications	220	1	29	6,380
Recertification Applications	720	1	4	2,880
Total	940			9,260

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities Management and Services Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or e:mail *muriel.anderson@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Bret Gates, CRS Coordinator, Federal Insurance & Mitigation Administration, Federal Emergency Management Agency, at (202) 646–4133, or by e:mail at bret.gates@fema.gov for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information.

Dated: October 11, 2001.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 01–26431 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1393–DR]

Florida; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida, (FEMA–1393–DR), dated September 28, 2001, and related determinations.

EFFECTIVE DATE: October 3, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 28, 2001:

Collier, Highlands, Lee, and Putnam Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–26430 Filed 10–18–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 2001.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Camargo Financial Company, Inc., Camargo, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Camargo, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. National United Bancshares, Inc.,, Gatesville, Texas, and National United Holdings, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of National Bank, Gatesville, Texas.

Board of Governors of the Federal Reserve System, October 15, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–26318 Filed 10–18–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than November 2, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Outsource Holdings, Inc., Lubbock, Texas; to acquire Jefferson Mortgage Services, Inc., Dallas, Texas, and Orr Lease, Inc., Dallas, Texas, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y, and in leasing personal or real property, pursuant to § 225.28(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, October 15, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–26319 Filed 10–18–01; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Office of Communications

Cancellation of an Optional Form by the Office of Personnel Management (OPM)

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) cancelled of 630, Leave Recipient Application Under the Voluntary Leave Transfer Program. The form was only available with FPM Letter 630–33 which no longer exists. OPM developed their own form (OPM 630) which they are happy to share with you. To obtain a copy of this form, go to the following internet site: *http://www.opm.gov/forms.*

DATES: Effective October 19, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: October 12, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–26342 Filed 10–18–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Meeting: Secretary's Advisory Committee on Genetic Testing

Pursuant to Public Law 92–463, notice is hereby given of the eleventh meeting of the Secretary's Advisory Committee on Genetic Testing (SACGT), U.S. Public Health Service. The meeting will be held from 9 a.m. to 5 p.m. on November 15, 2001 and 8:30 a.m. to 3 p.m. on November 16, 2001 at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814. The meeting will be open to the public with attendance limited to space available.

The Committee will discuss a number of topics, including the status of FDA activities to implement SACGT's recommendations for oversight of all new genetic tests; the outcomes and discussion of a roundtable meeting convened by the Education Work Group on how genetics fits into current or future health practice, major genetics educational needs of various disciplines of professions (e.g., core competencies, faculty needs, and training issues), and obstacles and gaps in the integration of genetics into health professional education and practice; and the Informed Consent Work Group's draft brochure for the general public on genetic testing and the status of the development of principles of informed consent in clinical and public health settings. The Committee will also begin exploring issues in the development, oversight, availability and accessibility of genetic tests for rare diseases through a number of invited presentations. In addition, the Committee is scheduled to be briefed by Congressional staff on the status of genetic discrimination legislation. Time will be provided for public comment and interested individuals should notify the contact person listed below.

Under authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established SACGT to advise and make recommendations to the Secretary through the Assistant Secretary for Health on all aspects of the development and use of genetic tests. SACGT is directed to: (1) Recommend policies and procedures for the safe and effective incorporation of genetic technologies into health care; (2) assess the effectiveness of existing and future measures for oversight of genetic tests; and (3) identify research needs related to the Committee's purview.

The draft meeting agenda and other information about SACGT will be available at the following web site: *http://www4.od.nih.gov/oba/sacgt.htm.* Individuals who wish to provide public comment or who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the SACGT Executive Secretary, Ms. Sarah Carr, by telephone at 301–496–9838 or E-mail at *sc112c@nih.gov.* The SACGT office is located at 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892.

Dated: August 12, 2001.

Sarah Carr,

Executive Secretary, SACGT.

[FR Doc. 01–26392 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–04]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written

comments should be received within 60 days of this notice.

Proposed Project

Survey of Consumer Reaction to Canadian-style Warning Labels of Tobacco Products—NEW—The National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC), proposes to conduct a national survey of young persons to assess their attitudes towards larger and more graphic cigarette warning labels, such as those currently used in Canada. Although the purpose of cigarette warning labels is to alert consumers about the health hazards of smoking, research suggests that current U.S. warnings fail to get the attention of smokers, an important first step if warnings are to have any deterrent effect. Cigarette warning labels have not changed since 1984 in the United States.

The proposed study will be conducted through implementation of a web-based survey. We propose to administer a 10 minute survey to 2000 persons 18 to 24 years of age. The survey will include images of Canadian cigarette packs with their current warning labels and questions about reactions to these warnings, including acceptability, and perceived usefulness (perceived impact on starting to smoke or deciding to quit). The results of this study will be shared with policy makers and public health officials. There are no costs to respondents.

Respondents	Number of respondents	Responses/respondent	Avg. burden per response (in hrs)	Total burden (in hrs)
Persons 18–24 years old	2000	1	10/60	333
Total				333

Dated: October 12, 2001.

John Moore,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–26320 Filed 10–18–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–02–03]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Perceptions of Tuberculosis Among Foreign Born Persons: Ethnographic Studies—New—National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC).

The National Center for HIV, STD, and TB Prevention, CDC proposes to conduct an ethnographic study to assess the attitudes, beliefs, and practices of selected foreign born persons regarding tuberculosis (TB). The purpose of this two-year effort is to provide formative research findings to use when designing future surveys, planning interventions, and evaluating programs to improve TB screening and adherence to therapy among foreign born persons. This research will also identify program gaps in addressing the special needs of these populations. A review of published data and consensus among TB researchers suggest that elimination of TB in the United States will depend largely upon reducing the impact of the disease among the foreign born. Currently, almost half of all domestic TB cases occur among foreign-born persons, and this proportion is growing. Providing culturally appropriate and responsive services to people from a variety of ethnic and cultural backgrounds is a challenge for local TB control programs and has been identified as a priority area in TB elimination activities.

Recognizing this challenge, the CDC Working Group on Tuberculosis Among Foreign Born Persons in 1998 developed recommendations for increasing emphasis on prevention and control of TB in foreign-born populations. The recommendations highlighted the need to utilize operational and behavioral research to gain a better understanding of relevant barriers to diagnosis and care. While few studies have examined these issues with the goal of developing practical tools to enhance TB services, one research project, conducted in New York State among Vietnamese refugees, created a valid research method for assessing TB issues among this population. The project resulted in policy change that increased this group's adherence to therapy.

The proposed study will build upon this research with Vietnamese refugees but will incorporate several cultural groups in four U.S. cities with a high burden of foreign-born TB patients. In depth ethnographic interviews will be conducted with 200 adults from the four ethnic/cultural groups, 50 per site. The information will be gathered by trained professional, multilingual/multi-cultural interviewers who will be rendered by the contracting agent. The data collection instrument will be comprised of semi-structured and open-ended questions intended to elicit a full range of responses concerning the participants' cultural beliefs and attitudes toward TB. Interviews will last no longer than one hour. Analysis of data will be performed with Atlas.ti, a qualitative analysis computer program.

The ultimate project outcomes will include a cultural competency resource manual with profiles of TB beliefs and behaviors from the studied cultural groups. The manual will assist local and

state health departments in developing customized interventions tailored to the local context. Culturally appropriate interventions will increase tuberculin skin testing and patient adherence to treatment for active TB disease and latent TB infection. In addition, the results can be used to develop targeted outreach, as well as customized communication protocols, patient education materials, incentives, and enablers. Finally, the study will produce a valid interview instrument that TB clinics can adopt for their own assessments of TB beliefs and attitudes among the local communities they serve. There are no cost to respondents.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)	Total burden (in hrs.)
Foreign Born Persons (interviewed)	100	1	1	100
Total				100

Dated: October 11, 2001.

John Moore,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–26322 Filed 10–18–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 28, 2001, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Ballrooms A and B, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Kimberly Littleton Topper or Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or by e-mail at TopperK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss the implementation of the pediatric rule with regard to study designs, ethical and developmental considerations, and extrapolation of findings from adult to pediatric cancer patients.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by November 16, 2001. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 8:45 a.m., and 1 p.m. and 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 16, 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 12, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–26314 Filed 10–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee for Pharmaceutical Science; 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 for Pharmaceutical Science.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 28 and 29, 2001, from 8:30 a.m. to 5:30 p.m.

Location: Center for Drug Evaluation and Research Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD.

Contact: Nancy Chamberlin, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1076), Rockville, MD 20857, 301–827–7001, e-mail: CHAMBERLINN@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12539. Please call the Information Line for up-to-date information on this meeting.

Agenda: On November 28, 2001, the committee will: (1) Discuss the current status of, and future plans for, the FDA draft guidance entitled ''ANDAs: Blend Uniformity Analysis;'' (2) discuss and provide direction for the Process Analytical Technology Subcommittee; (3) discuss and provide comments on stability testing and shelf life; and (4) receive updates from subcommittees and on other Center for Drug Evaluation and Research guidance documents. On November 29, 2001, the committee will: (1) Receive updates on FDA research in dermatopharmacokinetics, and (2) discuss and provide comments on bioequivalence issues.

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 15, 2001. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. on November 28, 2001, and between approximately 11 a.m. and 12 noon on November 29,

2001. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 15, 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 12, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–26370 Filed 10–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Needs Assessment of the Black Lung Clinics Program: NEW

The Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA), is planning to conduct a needs assessment of the Black Lung Clinics Program. The purpose of this study is to obtain data about the Black Lung Clinics Program grantees/sites and the services they provide to active and retired coal miners. The study consists of two sections: (1) A written and telephone survey of the site Program Coordinators about the patients and the services they provide, as well as services that patients would like to receive, but which are not available; and, (2) a measurement of the costs associated with delivering requisite services to this population, for whom data will be obtained from secondary sources. The data collected will provide policymakers with a better understanding of the resources needed to continue to support and expand the program. The assessment will provide new information about the organization, financing, and delivery of services to active and retired coal miners in Black Lung Clinics Programs.

Data from the survey and costing will provide quantitative information about the programs, specifically: (a) The characteristics of the patients they serve, (b) the organization components of the program, (c) the scope of services provided, (d) the costs and resources necessary to implement the program, (e) outreach services available, and (f) key unmet needs. This assessment will provide data useful to the program and will enable HRSA to provide data required by Congress under the Government Performance and Results Act of 1993.

The estimated burden is as follows:

Form name	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Survey	52	1	8	416

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 15, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–26317 Filed 10–18–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 2001.

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 15–16, 2001; 8 a.m. to 5 p.m.

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting is open to the public on Thursday, November 15, 2001, from 8 a.m. to 9 a.m., and closed for the remainder of the meeting.

Purpose: To review research grant applications in the program areas of maternal and child health, administered by the Maternal and Child Health Bureau, Health Resources and Services Administration.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Research, Training and Education, who will report on program issues, congressional activities, and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on Thursday, November 15, 2001, from 9 a.m. through the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6),Title 5 U.S.C., and the Determination by the Associate Administrator for Management and Program Support, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write or contact Christopher DeGraw, M.D., M.P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Dated: October 15, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–26371 Filed 10–18–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 2001.

Name: National Advisory Council on Nurse Education and Practice.

Date and Time: November 8, 2001; 8:30 a.m.–5 p.m., November 9, 2001; 8:30 a.m.–3 p.m.

Place: Hotel Washington, Pennsylvania Avenue, NW., at 15th St., Washington, DC 20004.

The meeting is open to the public.

Agenda: Department, Agency, Bureau and Division administrative updates; discussion of Council administrative procedures and selection of next co-chair; strategic plan review and update; identification of priorities for future work, including continued discussion of nursing shortage and other critical issues impacting nursing education and practice; workgroup breakout sessions to address work to be accomplished.

Anyone interested in obtaining a roster of members, minutes of the meeting, or other relevant information should write or contact Ms. Elaine G. Cohen, Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–1405.

Dated: October 15, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–26316 Filed 10–18–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Eye Council, September 13, 2001, 8:30 a.m. to September 13, 2001, 5 p.m., 6130 Executive Boulevard, Executive Plaza North, Room H, Rockville, MD, 20852 which was published in the **Federal Register** on July 23, 2001, Vol. 66, Page 38295.

The meeting date has been changed to November 20, 2001. The location remains the same. The meeting is partially Closed to the public.

Dated: October 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26384 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, K 23 Review Panel Mentored Patient-Oriented Research Career Development Award.

Date: October 19, 2001.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Diane M. Reid, MD, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26387 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Human Genome Research Institute.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Human Genome Research Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Human Genome Research Institute.

Date: November 6–7, 2001.

Open: November 6, 2001, 8 am to 8:30 am.

Agenda: To discuss matters of program relevance.

Place: Eisenhower Inn and Conference Center, Gettysburg, PA.

Closed: November 6, 2001, 9 am to Adjournment on November 7.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Eisenhower Inn and Conference Center, Gettysburg, PA.

Contact Person: Claire Rodgaard, Assistant to the Scientific Director, Division of Intramural Research, Office of the Director, National Human Genome Research Institute, 45 Convent Drive, Building 49, Room 4A06, Bethesda, MD 20892, 301 435–5802.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26390 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–31, Review of R–44 Grants.

Date: October 24, 2001.

Time: 11 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–14, Review of R–13 Grants.

Date: October 24, 2001.

Time: 3 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–11, Review of R01s.

Date: October 30, 2001.

Time: 10:30 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna Sandberg, MPH, DRPH, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–3089.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–07, Applicant Interview, P01.

Date: November 13–14, 2001.

Time: 7 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Marriot Pooks Hill, 5151 Pooks Hills Road, Bethesda, MD 20814.

Contact Person: Lynn M. King, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–38K, National Institute of Dental & Craniofacial, Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–594–5006.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–25, Review of R44 Grants.

Date: November 14, 2001.

Time: 11 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive,

Contact Person: Natcher Building, Conference Room E½, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, 02–20, Review R01 Grants.

Date: November 15, 2001.

Time: 10:30 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room E½, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna Sandberg, MPH, DRPH, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–19, Review of R44 Grants.

Date: November 16, 2001.

Time: 10 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–18, Review of R01 Grants.

Date: November 19, 2001.

Time: 2 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Bldg., Conf. Rms. A & D, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna Sandbert, MPH, DRPH, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–05, Review of P01 Grants.

Date: November 29–30, 2001.

Time: 7 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, ME 20814.

Contact Person: Lynn M. King, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–38K, National Institute of Dental & Craniofacial, Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–594–5006.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–24, Review of R44 Grants.

Date: December 6, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Bldg., Conf. Rms. A & D, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–09, Review of R01 Grants.

Date: December 6–7, 2001.

Time: 7 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Anna Sandberg, MPH, DRPH, Scientific Review Administrator, National Institute of Dental & Craniofacial

Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–29, Review of R44s.

Date: December 11, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: October 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26389 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee, AIDS Research Review Committee.

Date: November 8–9, 2001.

Open: November 8, 2001, 8:30 am to 9 am.

Agenda: Report on Institute business.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Closed: November 8, 2001, 9 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2209, 6700B Rockledge Drive, Bethesda, MD 20892–7616, 301–496–2550, *rb169@nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26391 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting.

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the contact person listed below in advance of the meeting. The meeting will be held as a telephone conference call with the members. A speaker phone installed in the conference room will enable members of the public in attendance to listen to the discussion and address the RAC.

Name of Committee: Recombinant DNA Advisory Committee (RAC).

Date: November 1, 2001.

Time: 12–1 p.m.

Agenda: To discuss and vote on a recommendation to the Director, NIH, regarding final action to amend Section IV–C–2 of the NIH Guidelines for Research Involving Recombinant DNA Molecules to change the prescribed number and expertise of RAC members and establish the charter of the RAC as the controlling document for the membership and procedures of that committee. The proposed action was published in the **Federal Register** on August 24, 2001 (66 FR 44638).

Place: National Institutes of Health, 9000 Rockville Pike, Building 45, Conference Room C1/C2, Bethesda, Maryland 20892.

Contact: Ms. Laurie Harris, RAC Program Assistant, Office of Biotechnology Activities, Rockledge 1, Room 750, Bethesda MD, 20892, (301) 496–9839.

Information is also available on the Institute's/Center's home page: www4.od.nih.gov/oba/, where an agenda and any additional information for the meeting will be posted when available. OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecules techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines, In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Instramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26388 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 25, 2001.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle, 1 Washington Circle, NW., Washington, DC 20037.
Contact Person: Rona L. Hirschberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, (301) 435–1150.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 26, 2001.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, General Medicine B Study Section.
Date: October 29–30, 2001.
Time: 8 a.m. to 10 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 29, 2001.
Time: 11 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Emphasis Panel.
Date: November 1–2, 2001.
Time: 8 am to 5 pm.
Agenda To review and evaluate grant applications.
Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.
Contact Person: Gloria B. Levin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, leving@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1–2, 2001.
Time: 8 am to 12 pm.
Agenda: To review and evaluate grant applications.
Place: Hyatt, 2799 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, 301–435–1217, byrnesn@csr.nih.gov.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Pharmacology Study Section.
Date: November 1–2, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel Georgetown, 3000 M Street, NW., Washington, DC 20007.
Contact Person: Jeanne N. Ketley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–1789.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Cardiovascular Study Section.
Date: November 1–2, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212, johnsong@csr.nih.gov.

Name of Committee: Biochemical Sciences Integrated Review Group, Physiological Chemistry Study Section.
Date: November 1–2, 2001.
Time: 8 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites Hotel Crystal City, 1300 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1, 2001.
Time: 8 am to 12 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS and Related Research 2.
Date: November 1–2, 2001.
Time: 8 am to 1 pm.
Agenda: To review and evaluate grant applications.
Place: Gaithersburg Marriott, Washingtonian Center, 9751 Washingtonina Blvd., Gaithersburg, MD 20878.
Contact Person: Sami A. Mayyasi, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *mayyasis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1–2, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW., Washington, DC 20037.
Contact Person: Richard D. Rodewald, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, (301) 435–1024, *rodewalr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1–2, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites Hotel—Harbor Building, 1000 29th Street NW., Washington, DC 20007.
Contact Person: Janet Nelson, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1723, *nelsonja@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 1–2, 2001.
Time: 8:30 am to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Angela M. Pattatucci-Aragon, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1, 2001.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Randolph Addison, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group Epidemiology and Disease Control Subcommittee 2.
Date: November 1–2, 2001.
Time: 8:30 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: David M. Monsees, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7848, Bethesda, MD 20892, (301) 435–0684, *monseesd@drg.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1–2, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, 301–435–0676, *siroccok@csr.nih.gov.*

Name of Committee: Genetic Sciences Integrated Review Group, Genome Study Section.
Date: November 1–2, 2001.
Time: 8:30 am to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Square, 2000 N Street, NW., Washington, DC 20036.
Contact Person: Cheryl M. Corsaro, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1–2, 2001.
Time: 1:30 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 1–2, 2001.
Time: 7:00 pm to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda MD, 20814.
Contact Person: Peter Lyster, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7806, Bethesda, MD 20892, (301) 435–1256.

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Study Section.
Date: November 2–4, 2001.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Milano Hotel, 55 Fifth Street, San Francisco, CA 94103.
Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 2, 2001.
Time: 11 am to 12:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Everett E. Sinnett, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 2, 2001.
Time: 1 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Abubakar A. Shaikh, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 435–1042, *shaikha@csr.nih.gov.*

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26385 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.
Date: October 18–19, 2001.
Time: 1 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Gerald L. Becker, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 15, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26386 Filed 10–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–16]

Notice of Proposed Information Collection for Public Comment for the Demolition/Disposition Application

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 18, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Demolition/Disposition Application.

OMB Control Number: 2577–0075.

Description of the need for the information and proposed use: House Agencies (HAs), are required to submit information to HUD to request permission to demolish or sell or all or a portion of a development (i.e., dwelling units, nondwelling property or vacant land) owned and operated by a HA. The specific information requested in the application is based on requirements of the statute, section 18 of the United States Housing Act of 1937, as amended, and specifically identified in 24 CFR part 970 of the regulation. The Department uses the information submitted to determine whether, and under what circumstances, to permit a HA to demolish or sell all or a portion of a public housing development. The Department is considering automation of the application.

Agency form number: HUD–52860.

Members of affected public: State or Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 120 responses; on occasion; 16 average hours per response; total annual reporting burden is 1,920 hours.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 12, 2001.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Demolition / Disposition Application

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0075 (exp. 10/31/01)

Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required to request permission to demolish or sell all or portion of a development (i.e., dwelling units, non-dwelling property or vacant land) owned and operated by a Housing Authority. The information requested in the application is based on requirements of Section 18 of the United States Housing Act of 1937, as amended and 24 CFR Part 970. HUD will use the information to determine whether, and under what circumstances, to permit HAs to demolish or sell all or a portion of a public housing development. Responses to the collection of information are statutory and regulatory to obtain a benefit. Approval of this application does not constitute approval for funding of the demolition or disposition action. The information requested does not lend itself to confidentiality.

Section 1: General Information

1. Name of PHA:			2. Date of Application: (mm/dd/yyyy)
3. Address of PHA No. & Street:	City:	State:	Zip code:
4. Phone No. of PHA:	Fax No:	E:mail Address:	
5. Executive Director's Name:			
Phone No:	Fax No:	E:mail Address:	
6. Primary Contact's Name:			
Phone No:	Fax No:	E:mail Address:	

Section 2: Long-Term Possible Impact of Proposed Action

1. Performance Funding Subsidy (PFS)

In FY _____, this HA received $_____ per unit in PFS funds.

The HA realizes that after this activity takes place, PFS will decrease by $_____ /year. (number of units proposed X subsidy per unit)

2. Comprehensive Grant Program (CGP)

In FY _____, this HA received $_____ per unit in CGP funds.

The HA realizes that after this activity takes place, CGP funding will decrease approximately by $_____ /year.

Section 3: Board Resolution, 24 CFR Part 970.8, and Environmental Review, 24 CFR Parts 50 and 58

1. Board Resolution Number _____ 2.. Date of Board Resolution _____

Attach a copy of the Board Resolution and reference it as Section 3, line 2.

3. Who is conducting the environmental review? ☐ Field Office under 24 CFR Part 50 ☐ Responsible Entity under 24 CFR Part 58

Please Note: Where the demolition is to be funded with HOPE VI funds, the HA is prohibited from using Part 58.

4. Give the date(s) the HA contacted the HUD Field Office to initiate the environmental review for all the developments in the application.

_____ _____ _____ _____ _____ _____

5. If the environmental review is to be performed by a responsible entity, name the entity.

_____

6. As it relates to this application for demolition/ disposition, I certify to the following:
   - o that all information contained in the application is true as of the date of this application;
   - o that no demolition will take place until all residents have been relocated; and
   - o that the HA will comply with the requirements of the Uniform Relocation Act (URA) and the implementing regulations found at 49 CFR Part 24.

Name of Executive Director _____

Signature _____ Date _____

Provide attachments as needed. All attachments must reference the Section and line number to which they apply.

form **HUD-52860**(7/98)
ref. 24 CFR 970

Section 3: Table I

Summary of Units to be Demolished/Disposed where more than one development is included in the application.

Development No. & Name	0 - Bdrm Units	1 - Bdrm Units	2 - Bdrm Units	3 - Bdrm Units	4 & 4+ Units	Total Units	Resident Bldg.	NonResid. Bldg.	Total Bldgs.	Acres Disposed
Totals										

Sections 4 thru 9 must be completed for each development in the application. If more than one development is included in the application, reproduce these pages for each development and provide a summary in Section 3: Table I.

Develpoment Number:

Section 4: Description of Property 24 CFR Part 970.8

1. Name of the Development				2. Development Number
3. Date of Full Availability (mm/dd/yyyy)	**4. No. of Residential Buildings**	**5. No. of Non-Residential Buildings**	**6. Date Constructed (mm/dd/yyyy)**	**7. Is Development a Scattered Site** ☐ Yes ☐ No

8. Number of Building Types					9. Number of Types of Structures		
Single FamilyHouses	Duplexes	3-Plexes	4-Plexes	Other (explain)	Row House Units	Walk-Up Units	High Rise Units

10. Existing Unit Distribution	FamilyUnits	ElderlyUnits	Total Units Being Used for Non-Dwelling Purposes	Total Units in Development	11. Total Acres of the Development
0 Bdrm					
1 Bdrm					
2 Bdrms					
3 Bdrms					
4 or more Bdrms					
Total *					

* Enter in Section 6, line 4c.

Section 5: Description of Proposed Action by Project 24 CFR Parts 970.8 and 970.9

1. Type of action proposed: Check one

☐ Complete Demolition ☐ Partial Demolition ☐ Disposition Only ☐ Demolition and Disposition

2. Proposed Action By Unit Type		Units to be Demolished Only	Units to be Disposed of Only
0 Bdrm	Elderly		
0 Bdrm	Family		
1 Bdrm	Elderly		
1 Bdrm	Family		
2 Bdrms	Elderly		
2 Bdrms	Family		
3 Bdrms	Family		
4 or more Bdrms	Family		
Totals *			

* Enter in Section 6, line 4a or b.

3. Proposed Action By Building Type	Buildings to be Demolished Only	Buildings to be Disposed of Only
Residential Buildings		
Non-Residential Buildings		
Total Buildings		

4. Acres included in Proposed Disposition

5. Site Map (**provide an attachment and reference it as Section 5, line 5**)

6. If this is a Disposition Application, estimate of Project Debt $

7. If application is a **partial** demolition/disposition of the **development**, provide the address, building number(s), or name of each building to be demolished or disposed of (**provide an attachment and reference it as Section 5, line 7**).

8. In the case of disposition of vacant land, provide the legal description of each parcel of land (**provide an attachment and reference it as Section 5, line 8**).

9. **If disposition**, what is the appraised value determined by an independent appraisal? **(Include a copy of the appraisal and reference it as Section 5, line 9)** $

10. Which of the following describe the proposed disposition? (check all that apply)

A. ☐ Disposition at Fair Market Value via Public Sale B. ☐ Negoiated Sale C. ☐ Sale at Less than Fair Market Value (e.g., donation)

If B and/or C are checked, **provide a justification and reference it as Section 5, line 10.** (see Instructions).

11. Calculation of Net Proceeds:

Estimated Sales Price	minus	Debt	minus	Cost & Fees	equals	Estimate Net Proceeds
$	-	$	-	$	=	$

12. How will the Net Proceeds be used? (**provide an attachment and reference it as Section 5, line 11**)

13. When will a contract for Disposition be executed? By _____ (mm/yyyy) Or _____ (number of months) after HUD approval

14. **If Demolition,** (a) what is the estimated cost of demolition? (Include professional fees, hazardous waste removal, building and site improvement, demolition, and seeding and soddng of land. Do not include relocation costs or site improvements such as landscaping, playground, retaining walls, streets, sidewalks, etc.)

$ _____

(b) Indicate the source of funds: _____

15. General Timetable: The HA is to provide a brief timetable based on the number of days or weeks after approval of the application that the following major actions will occur: 1. begin relocation of residents 2. complete relocation of residents 3. execution of demolition contract or disposition sales contract 4. demolition or disposition of the property

16. Calendar year of Demolition/Disposition if doing in one year: _____

17. If Demolition/Disposition is phased, provide a complete TimeTable and bedroom breakdown for each year. If more than four years are proposed, **provide an attachment and reference it as Section 5, line 17.**

Phase	Calendar Year of Contract	Year of Years
Elderly Units No.	Family Units No.	Totals
0 Bdrm	0 Bdrm	
1 Bdrm	1 Bdrm	
2 Bdrms	2 Bdrms	
	3 Bdrms	
	4 or more Bdrms	

Phase	Calendar Year of Contract	Year of Years
Elderly Units No.	Family Units No.	Totals
0 Bdrm	0 Bdrm	
1 Bdrm	1 Bdrm	
2 Bdrms	2 Bdrms	
	3 Bdrms	
	4 or more Bdrms	

Phase	Calendar Year of Contract	Year of Years
Elderly Units No.	Family Units No.	Totals
0 Bdrm	0 Bdrm	
1 Bdrm	1 Bdrm	
2 Bdrms	2 Bdrms	
	3 Bdrms	
	4 or more Bdrms	

Phase	Calendar Year of Contract	Year of Years
Elderly Units No.	Family Units No.	Totals
0 Bdrm	0 Bdrm	
1 Bdrm	1 Bdrm	
2 Bdrms	2 Bdrms	
	3 Bdrms	
	4 or more Bdrms	

Section 6: Justification for Demolition and/or Disposition 24 CFR Parts 970.6 and 970.7

1. Check all that apply and **provide an attachment and reference it as Section 6, line 1** to support all applicable conditions.

Demolition

970.6(a) In the case of demolition of all or a portion of project, the project, or portion of the project, is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes **and** no reasonable program of modifications, is feasible to return the project or portion of the project to useful life. The Department generally shall not consider a program of modifications to be reasonable if the costs of such program exceed 90 percent of total development cost (TDC). Major problems indicative of obsolescence are:

☐ 970.6(a)(1) As to physical condition: Structural deficiencies (e.g., settlement of earth below the building caused by inadequate structural fills, faulty structural design, or settlement of floors), substantial deterioration (e.g., severe termite damage or damage caused by extreme weather conditions), or other design or site problems (e.g., severe erosion or flooding);

☐ 970.6(a)(2) As to location: physical deterioration of the neighborhood; change from residential to industrial or commercial development; or environmental conditions as determined by HUD environmental review in accord with part 50 or part 58 of this title, which jeopardize the suitability of the site or a portion of the site and its housing structures for residential use;

☐ 970.6(a)(3) Other factors which have seriously affected the marketability, usefulness, or management of the property.

☐ 970.6(b) In the case of demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project (e.g., to reduce project density to permit better access by emergency, fire, or rescue services).

Disposition

970.7(a) Retention is not in the best interests of the tenants and the PHA because at least one to the following criteria is met:

☐ 970.7(a)(1) Developmental changes in the area surrounding the project (e.g., density, or industrial or commercial development) adversely affect the health or safety of the tenants or the feasible operation of the project by the PHA;

☐ 970.7(a)(2) Disposition will allow the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as lower income housing projects, and that will preserve the total amount of lower income housing stock available to the community. A PHA must be able to demonstrate to the satisfaction of HUD that the additional units are being provided in connection with the disposition of the property;

☐ 970.7(a)(3) There are other factors justifying disposition that HUD determines are consistent with the best interests of the tenants and the PHA and that are not inconsistent with other provisions of the Act. As and example, if the property meets any of the criteria for demolition under 970.6, it may be disposed of under this criterion (970.7(a)(3)), subject to conditions that HUD may impose (e.g., demolition to follow disposition in order to ensure abatement of a threat to safety or health).

☐ 970.7(b) In the case of disposition of property other than dwelling units (1) the property is determined by HUD to be excess to the needs of the project (after EIOP), or (2) the disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the project

2. **Total Development Cost (TDC) Calculation**

Based on HUD Notice _____ For Locality _____

If justification is based upon obsolesence of the units/buildings, complete the applicable calculation below for the unit proposed for demolition for each project.

	No. of Units	times	TDC per Unit	equals	TDC
0 - Bdrm Detached & SemiDetached		x		=	
0 - Bdrm Row Dwelling		x		=	
0 - Bdrm Walk-Up		x		=	
0 - Bdrm Elevator		x		=	
1 - Bdrm Detached & SemiDetached		x		=	
1 - Bdrm Row Dwelling		x		=	
1 - Bdrm Walk-Up		x		=	
1 - Bdrm Elevator		x		=	
2 - Bdrms Detached & SemiDetached		x		=	
2 - Bdrms Row Dwelling		x		=	
2 - Bdrms Walk-Up		x		=	
2 - Bdrms Elevator		x		=	
3 - Bdrms Detached & SemiDetached		x		=	
3 - Bdrms Row Dwelling		x		=	
3 - Bdrms Walk-Up		x		=	
3 - Bdrms Elevator		x		=	
4 - Bdrms Detached & SemiDetached		x		=	
4 - Bdrms Row Dwelling		x		=	
4 - Bdrms Walk-Up		x		=	
4 - Bdrms Elevator		x		=	
5 - Bdrms Detached & SemiDetached		x		=	
5 - Bdrms Row Dwelling		x		=	
5 - Bdrms Walk-Up		x		=	
5 - Bdrms Elevator		x		=	
6 - Bdrms Detached & SemiDetached		x		=	
6 - Bdrms Row Dwelling		x		=	
6 - Bdrms Walk-Up		x		=	
6 - Bdrms Elevator		x		=	
Total				=	$

3. Estimated Cost of Rehabilitation.

Provide an attachment showing cost breakdown and reference it as Section 6, line 3 . $ _____

4. How many of the following units are occupied at the time of application submission?

a. Of the _____ (copy number from Section 5, line 2) units proposed for **demolition**, _____ (number) are occupied.

b. Of the _____ (copy number from Section 5, line 2) units proposed for **disposition**, _____ (number) are occupied.

c. Units **remaining** after demolition/disposition:

_____ (total existing units; copy from Section 4, line 10) minus _____ (from 4a.) minus _____ (from 4b.) = _____ remaining units.

How many of the remaining units are occupied? _____

If any occupied units are listed in a or b, complete Section 7, line 1.

Occupancy

5. Occupancy Information as of the date of the application.

	Occupied Units	Units Vacant for less than 12 months	Units Vacant for 12 or more months	Total Vacant Units	Total Units Occupied and Vacant
0 - Bdrm					
1 - Bdrm					
2 - Bdrms					
3 - Bdrms					
4 - Bdrms					
5 - Bdrms					
6 - Bdrms					
Totals					

Section 7: Relocation 24 CFR Part 970.8

1. How many **individuals** will be effected by this action? ☐
2. How will counseling and advisory services be provided? **Provide an attachment explaining and reference it as Section 7, line 2 .**
3. What housing resources are expected to used for relocation?
   ☐ Other Public Housing ☐ Section 8 ☐ Other (**Provide an attachment explaining and reference it as Section 7, line 3 .**)

	Per Unit Cost	x	No. of Units	=	Total
4. Estimated cost of counseling and advisory services	$	x		=	
5. Estimated cost of moving expenses	$	x		=	
6. Total cost of relocation expenses					$

7. What sources of funding will be used to pay for relocation activities?
   ☐ Operating Funds ☐ Comp Grant ☐ CIAP ☐ HOPE VI ☐ Other (**Provide an attachment explaining and reference it as Section 7, line 7 .**)
8. Has the HA provided residents with a **general information notice** advising them of the possible affects of proposed action?
   Provide an attachment explaining and reference it as Section 7, line 8 .
9. How many days in advance of actual relocation will the HA issue a **notice of eligibility** to each family to be affected by the relocation? ☐

Section 8: Resident Consultation 24 CFR Parts 970.4 and 970.8

1. Has the HA consulted with the residents of the affected development? ☐ Yes ☐ No

   Provide an attachment thoroughly describing the consultation process and reference it as Section 8, line 1.

2. Is there a resident organization at the affected development(s)? ☐ Yes ☐ No

   Provide an attachment explaining consultation with the resident organization(s) at the development and reference it as Section 8, line 2.

3. Is there a HA-wide resident organization? ☐ Yes ☐ No

   Provide an attachment explaining the consultation with the HA-wide resident organization(s) and reference it as Section 8, line 3.

4. Were any written comments received from the residents or any of the resident organizations? ☐ Yes ☐ No

   Attach copies of the comments received and the HA's evaluation of the comments and responses to the residents' comments and reference it as section 8, line 4.

Section 9: Section 412 Offer of Sale 24 CFR Part 970.13

1. Did the HA provide an offer of sale to the resident organization(s) at the development? ☐ Yes ☐ No
   If "yes," provide documentation of offer and response or certification of non-response and reference it as Section 9, line 1 .
2. If no organization existed, did the HA provide the residents an opportunity to form a resident organization? ☐ Yes ☐ No
   If "no," provide an explaination and reference it as Section 9, line 2 .
3. Is the HA exercising any of the exceptions to the offer of sale requirement permitted by 24 CFR 970.13(a)(2)? ☐ Yes ☐ No
   If "yes," which of the following exceptions apply? **Check all that apply and provide an attachment justifying the use of the exception and reference it as Section 9, line 3 .**

☐ 970.13(a)(2) (i) The PHA has determined that the property proposed for demolition is an imminent threat to the health and safety of residents.

☐ 970.13(a)(2) (ii) The local government has condemned the property proposed for demolition.

☐ 970.13(a)(2) (iii) A local government agency has determined and notified the PHA that units must be demolished to allow access to fire and emergency equipment.

☐ 970.13(a)(2) (iv) The PHA has determined that the demolition of selected portions of the development in order to reduce density is essential to ensure the long term viability of the development or the PHA (but in no case should this be used cumulatively to avoid Section 412 requirements).

☐ 970.13(a)(2) (v) A public body has requested to acquire vacant land that is less than two acres in order to build or expand its services (e.g., a local government wishes to use the land to build or establish a police substation).

☐ 970.13(a)(2) (vi) PHA seeks disposition outside the public housing program to privately finance or otherwise develop a facility to benefit low-income families (e.g., day care center, administrative building, other types of low-income housing).

Demolition/Disposition Application Instructions

Instructions for completing the HUD-52860, Application for Demolition/Disposition. Please fill out all of the information requested. Instructions and explanations are provided for those items which may not be self-explanatory. If you have questions about how to fill out this application, please contact the Special Applications Center (SAC).

Section 1: General Information

Item 1. Name of PHA - Please provide the full authority name, as well as the abbreviation that is preferred.

Item 2. Date of Application - The date the application was put in the mail.

Item 3. Address - Please provide a mailing address, other than a PO Box for express mail delivery.

Item 6. Primary contact - Identify the individual who was responsible for putting the application together, and is empowered to provide supplemental information, if needed.

Section 2: Long Term Possible Impact of Proposed Action

The actions covered by this application have many financial ramifications and the action proposed can only be reversed at the discretion of the Department. Prior to deciding to embark on a program of demolition or disposition, the HA staff should have determined: (1) that no other solution is feasible e.g., a new marketing strategy, or unit conversion,.etc. (2) analyzed how much it costs to operate the unit or units proposed for demolition or disposition and (3) determined how much these units represent in Comprehensive Grant Program (CGP) and operating subsidy (Performance Funding System (PFS)) funds. The HA should acknowledge that as the HA's inventory is reduced because of demolition or disposition there will be a reduction in the PFS and the CGP, if there is no replacement housing. In some cases these reductions will be phased in over a period of time. For specific information on which units (e.g., units proposed for demolition or disposition, vacant units or occupied units, etc.) are subject to a phase down in funding, see 24 CFR Part 968 and 24 CFR Part 990. The HA should also understand that after a period in time, the reduction in Federal income will reach a steady state. The purpose of requiring an estimate in the reduction of Federal funding is to show that the HA has performed an analysis and is aware that a reduction may take place.

Section 3: Board Resolution and Environmental Review

Items 1 and 2.

A Board Resolution is required in support of the proposed activity. The Board Resolution should be dated after the last resident meeting to show the Board is aware of all resident comments concerning the application. Provide the date of the resolution and the resolution number, if the HA numbers its resolutions.

Items 3 - 6.

Please fill out the information on your actions in arranging for the review and identify who is performing the review. **Please note that where the demolition is to be funded with HOPE VI funds for either revitalization or demolition only, the HA is prohibited from using the Part 58 and therefore, the Field Office must conduct the environmental review under Part 50.**

Table I: Summary of Units to be Demolished/Disposed Where More Than One Development is Included in the Application.

Complete this table where the HA's application contains more than one development, as identified by its unique public housing development number, in the application. For example, if the HA is proposing to demolish or dispose of four developments, then all four developments must be identified on this table with appropriate bedroom distribution, number of buildings and acres.

Sections 4 - 9 must be completed for each development in the application.

Section 4: Description of Property

The HA should be sure to describe the number of buildings, units, and total acres for the entire development as it currently exists. This is essential baseline information for the SAC.

Please note that although an application may contain multiple projects, under the current regulations, compliance with the regulations is determined on a project-by-project basis. Subsequent HUD approval and tracking is also performed at the project level.

Item 2. Development Number - Please use the HUD development number. All development numbers are at least 11 characters long. A few are up to 14 characters long for older developments. (Do not use the Major Reconstruction of Obsolete Projects number.)

Item 3. Date of Full Availability (DOFA)

Item 6. Date of Construction - applies to those developments that were acquired as part of the development process and reconstructed at the time of development. Therefore, for these acquired developments, the DOFA date is not a true indicator of the age of the developments.

Item 11. Total Acres of the Development. Give the total number of acres that currently exist in the development. The system recognizes up to two decimal places (1234.56).

Section 5: Description of Proposed Action by Project

Item 1. Type of Action Proposed. It is possible for a HA to request approval for a demolition and disposition in one application. However, the applicant must meet the regulatory requirements for both actions. See the summary of application requirements in 24 CFR Part 970.8. For example, an appraisal is required for a disposition or a demolition\disposition application but not a demolition application. Furthermore, the HA must justify to the satisfaction of HUD its rationale for spending Federal funds, usually Comprehensive Improvement Assistance Program (CIAP) funds or CGP Funds, for the demolition of units when the property will be leaving (e.g., disposition action) the public housing inventory.

Item 3. The HA will use this item to identify residential and non-residential buildings proposed for demolition and/or disposition.

Item 4. Acres Included in Proposed Disposition. The HUD data systems track this in acres. The system recognizes up to two decimal places (1234.56).

Item 5. A site map is critical in examining partial demolition/disposition requests. Please mark clearly the units and buildings proposed for demolition or disposition on the site map. (A copy of a site map for each development must be attached to the application form.)

Item 6. Estimate of Project Debt. For a disposition application only, provide the estimate of debt for each development in the application. The SAC or the HUD Field Office has access to this information through the Chief Financial Officer (CFO), if the HA does not have the information in a letter from HUD.

Item 7. In the attachment, the HA should explain why it selected the particular units and buildings to be demolished in the case of partial demolition. For example, in the case of demolition of a section of the development, clearly explain why the HA is proposing to demolish this section rather than another. Also, note that once the partial demolition application is approved by the SAC, the HA cannot change units in the approval without HUD's approval.

Item 9. The estimated sale price must be based on an appraisal. A copy of the appraisal must be included in the application. This requirement is only for a Disposition or a Demolition/Disposition application.

Item 10. If a HA elects (B) Negotiated Sale as the method of disposition, it must specify the disposition cost as either fair market value (FMV) or (C) less than FMV. See 24 CFR Part 970.9(a) of the regulations for guidance on the justification for a negotiated sale or sale at less than fair market value. An attachment describing a sale identified as (B) or (C) is required.

Item 11. Calculation of Net Proceeds. If the HA does not know if there is still outstanding debt, contact your local HUD servicing office. The Center will update the debt amount at the time of application review.

Item 12. Use of Net Proceeds. The HA's first priority is to retire outstanding debt with the proceeds of sale. If an HA has bonded debt that cannot be forgiven, proceeds must be used to make payment on the remaining debt. Second, where the HA has proceeds after payment of debt, those proceeds must be used for the provision of housing assistance to low-income families, e.g., the modernization of another development or building low-income housing. The activities proposed should generally relate to housing services and should be approvable under the CIAP and the CGP. (See 24 CFR Part 970.9(b). Determination of net proceeds for scattered sites are calculated differently, see 24 CFR Part 970.9 (c).

The HA should provide an estimate of gross and net proceeds of sale. Specify in the attachment how the proceeds will be used if the HA anticipates remaining funds after paying the debt and/or related expenses (e.g., relocation, sales costs, etc.). Use of proceeds must be approved by the Department.

Item 14. Indicate source of funds. Identify the source(s) of funding for the demolition or disposition (e.g., modernization, vacancy reduction, etc.) and estimated amount of funds needed.

Section 6: Justification of Demolition or Disposition

Item 1. The applicable criteria for demolition are found in 24 CFR Parts 970.6 and 970.7 for disposition. It is possible to use the demolition justification of obsolescence to support a disposition action.

The justifications that have been the most difficult for HAs to document are 24 CFR Parts 970.6 and 970.7(a)(2).

24 CFR Part 970.6 - Obsolescence. HAs that use Section 970.6(a), *"... the project, or portion other project, is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes* **and** *no reasonable program of modifications, is feasible to return the project or portion of the project to useful life.",* must provide documentation for meeting both parts of the test, obsolescence **and** rehabilitation is not reasonable.

The HA must provide evidence of obsolescence. For example, a structural problem with the building (as substantiated by an engineering report), an environmental issue related to hazardous substances at the site, or since the project was built has the highway surrounded the area removing access to public transportation, or schools, or has the neighborhood changed with more commercial activity.

Items 2 & 3. In addition, to documentation of some type of obsolescence, the HA must demonstrate that rehabilitation is **not** reasonable. The applicant must demonstrate to HUD that the cost of rehabilitation compared with the cost guidelines for that development (i.e., 90 percent of TDC) is excessive or that it is unreasonable. Completing items 2 and 3 of this section will provide the HA with the TDC and the estimated cost of rehabilitation. The SAC will make the necessary cost comparison.

24 CFR Part 970.7 - More Efficient, More Effective Lower Income Housing

An HA using Section Part 970.7(a)(2): *". . .disposition will allow the acquisition, development or rehabilitation of other properties that will be more efficiently or effectively operated as lower income housing projects, and that will preserve the total amount of lower income housing stock available to the community . . .", is* expected to provide replacement housing for each unit that will be lost to the public housing inventory. This replacement housing may come from either the proceeds of the sale, another source or any combination of those resources. These units do not have to be public housing units but they must serve low income families in the community. This particular justification is not tied to the suspension of the one-for-one replacement requirement.

Section 7: Relocation

Item 1. Identify total number of individual residents including children. Do not provide number of households.

If units proposed for demolition are vacant, the HA should clearly explain in the application the circumstances that led to the units being vacant, when the residents were relocated(e.g., beginning in May 1997 until July 14, 1997), the resources used, and where the residents were relocated to.

Section 8: Resident Consultation - 24 CFR Part 970.8(e)

The regulation requires general resident consultation, however, it does not specify how the consultation should be done. The method of consultation is, therefore, at the HA's discretion. However, any consultation must be documented. This is one of two resident requirements in the regulation.

The application should document that the HA contacted the residents of the affected development and both the resident organization at the affected development (i.e., the development where the demolition or disposition is proposed), as well as the HA-wide resident organization(s). Many HAs mistakenly think that since the 24 CFR Part 970.13, the requirement for the offer of sale to the resident organization of any property proposed for demolition or disposition, is limited to the resident organization at the development, general resident consultation is likewise limited. Not true.

If prior to submission of the application the residents at the development were temporarily moved for modernization and the HA later decided to demolish or sell the property, the HA must go back to the residents and conduct consultation over the proposed action.

Section 9: Section 412 Offer of Sale (Note 1)

This is the second resident requirement in the regulation. HAs are required to offer the property (i.e., land, units and nondwelling space) proposed for demolition or disposition to resident organization at the affected development. However, the regulation does allow for exceptions to this opportunity to offer.

Item 3. The HA should review the list of six exceptions, identified in 24 CFR Part 970.13(a)(2), to determine if the requirement to make an offer to the resident organization is applicable. HAs are required to provide documentation e.g., if the property has been condemned by the city, a copy of the condemnation order, etc.), in order to claim any of the exceptions.

An application submitted to the Department should include one of the following:

(a) where there is a resident organization, a copy of the letter to the resident organization and the resident organization's letter of negative response.

(b) where there is no resident organization at the development, a certification from the Executive Director or Board that there is no resident organization, including evidence that the residents were given an opportunity to form (45 days) an organization for the expressed purpose of purchasing the property and expressed no interest.

(c) an explanation of why the proposed demolition or disposition action should be exempt from the Section 412 requirements (see Section 24 CFR Part 970.13(a)(2), including evidence to justify the use of the exemption, as required in the regulation.

(d) a certification from the Executive Director or Board stating that the resident organization at the development was contacted and the 30-day time frame expired without response from the organization.

Note 1: This requirement is often referred to as the 412 requirement, because it was established by Section 412 of the Cranston-Gonzalez National Affordable Housing Act of 1990.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–FA–06]

Announcement of Funding Awards for Fiscal Year 2001 Alaska Native/Native Hawaiian Institutions Assisting Communities Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 2001 Alaska Native/Native Hawaiian Institutions Assisting Communities Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards which are to be used to help Alaska Native and Native Hawaiian Institutions of Higher Education expand their role and effectiveness in addressing community development needs in their localities, consistent with the purposes of HUD's Community Development Block Grant program (CDBG) .

FOR FURTHER INFORMATION CONTACT: Barbara Holland, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8106, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061. To provide service for persons who are hearing-or-speech-impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 1–800–877–TTY, 1–800–877–8339, or 202–708–1455. (Telephone number, other than ''800'' TTY numbers are not toll free.)

SUPPLEMENTARY INFORMATION: The Alaska Native/Native Hawaiian Institutions Assisting Communities Program (AN/NHIAC) was enacted under section 107 of the CDBG appropriation for fiscal year 2001, as part of the ''Veterans Administration, HUD and Independent Agencies Appropriations Act of 2001'' and is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The Alaska Native/Native Hawaiian Institutions Assisting Communities Program provides funds for a wide range of CDBG-eligible activities including housing rehabilitation and financing, property demolition or acquisition, public facilities, economic development, business entrepreneurship, and fair housing programs. On February 26, 2001 (66 FR 11779), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $4.2 million in Fiscal Year 2001 and carryover funds for the Alaska Native/Native Hawaiian Institutions Assisting Communities Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD three applications were funded. These grants, with their grant amounts are identified below.

The Catalog Federal Domestic Assistance number for this program is 14.515.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 ((103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as follows:

List of Awardees for Grant Assistance Under the FY 2001

Alaska Native/Hawaiian Institutions Assisting Communities Program Funding Competition, by Name and Address

Pacific/Hawaii

1. University of Hawaii for Kauai Community College, Maui Community College, and Leeward Community College, Dr. Peggy Cha (Kauai), Mike Inouye (Maui), and Mike Pecsok (Leeward), University of Hawaii, 2530 Dole Street, Sakamaki D–200, Honolulu, HI 96822. Grant: $1,192,620, $398,749 for Kauai, $304,013 for Kaui, and $399,848 for Leeward.

Northwest/Alaska

2. University of Alaska Fairbanks, Interior-Aleutians Campus, Clara Johnson, University of Alaska Fairbanks, Interior-Aleutians Campus, P.O. Box 757880, Fairbanks, AK 99775. Grant: $397,713.

3. University of Alaska Fairbanks, Bristol Bay Campus, Dr. Margaret Wood, University of Alaska Fairbanks, Bristol Bay Campus, P.O. Box 1070, Dillingham, AK 99576. Grant: $400,000.

Dated: October 4, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–FA–03]

Announcement of Funding Awards for Fiscal Year 2001 Community Outreach Partnership Centers

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 2001 Community Outreach Partnership Centers Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards which are to be used to establish and operate Community Outreach Partnership Centers that will: (1) Conduct competent and qualified research and investigation on theoretical or practical problems in large and small cities; and (2) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

FOR FURTHER INFORMATION CONTACT: Barbara Holland, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8110, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061. To provide service for persons who are hearing-or-speech-impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 1–800–877–TTY, 1–800–877–8339, or 202–708–1455. (Telephone number, other than ''800'' TTY numbers are not toll free.)

SUPPLEMENTARY INFORMATION: The Community Outreach Partnership Centers Program was enacted in the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) and is administered by the Office of University Partnerships

under the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The Community Outreach Partnership Centers Program provides funds for: research activities which have practical application for solving specific problems in designated communities and neighborhoods; outreach, technical assistance and information exchange activities which are designed to address specific problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, and community organizing. On February 26, 2001 (66 FR 11725), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $8 million in Fiscal Year 2001 funds for the Community Outreach Partnership Centers Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded 16 applications for New Grants and 8 applications for New Directions Grants. New Grants, which cannot exceed $400,000, are for institutions of higher education just beginning a COPC project. New Directions Grants, which cannot exceed $150,000, are for institutions of higher education that are undertaking new activities or expanding into new neighborhoods. These grants, with their grant amounts are identified below.

The Catalog Federal Domestic Assistance number for this program is 14.511.

In accordance with section 102(a) (4) (C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as follows:

List of Awardees for Grant Assistance Under the FY 2001

Community Outreach Partnership Centers Funding Competition, by Name and Address

New England

1. Housatonic Community College, Dr. Robert Thorton, Housatonic Community College, 900 Lafayette Blvd., Bridgeport, CT 06604. Grant: $399,574.

New York/New Jersey

2. Montclair State University, Dr. Freyda Lazarus, Montclair State University, Normal Avenue, Upper Montclair, NJ 07043. Grant: $399,010.

3. New Jersey City University, Dr. Jill Lewis, New Jersey City University, 2039 Kennedy Blvd., Jersey City, NJ 07305. Grant: $368,624.

4. Rensselaer Polytechnic Institute, Patricia Gray, Rensselaer Polytechnic Institute, 110 Eighth Street, Troy, NY 12180. Grant: $397,875.

Mid-Atlantic

5. George Mason University, Dr. Todd Endo, George Mason University, 4400 University Drive, MSN 4C6, Fairfax, VA 22030. Grant: $150,000.

Southeast/Caribbean

6. Gadsden State Community College, Dr. Brenda Crowe, Gadsden State Community College, P.O. Box 227, 1001 George Wallace Drive, Gadsden, AL 35902. Grant: $400,00.

7. Georgia State University, Dr. Douglas Greenwell, Georgia State University, University Plaza, Atlanta, GA 30303. Grant: $150,000.

8. University of Kentucky, Dr. Retia Walker, University of Kentucky, 201 Kinkead Hall, Lexington, KY 40506. Grant: $399,974.

Midwest

9. Calvin College, Dr. Steven Timmermans, Calvin College, 3201 Burton Street, SE, Grand Rapids, MI 49546. Grant: $399,949.

10. Cleveland State University, Dr. Philip Starr, Cleveland State University, 1717 Euclid Avenue, Cleveland, OH 44115. Grant: $149,279.

11. Eastern Michigan University, Dr. David Clifford, Starkweather Hall, 2nd Floor, Ypsilanti, MI 48197. Grant: $394,555.

12. Southern Illinois University Carbondale, Dr. Tess Heiple, Southern Illinois University Carbondale, Carbondale, IL 62901. Grant: $399,999.

13. University of Chicago, Colleen Burrus, University of Chicago, 5801 Ellis Avenue, Chicago, IL 606037. Grant: $399,999.

14. University of Illinois, Dr. R. Varkki George, University of Illinois, 801 S. Wright Street, 109 Coble Hall, Champaign, IL 61820. Grant: $149,974.

15. University of Minnesota, Dr. Fred Smith, University of Minnesota, 450 McNamara Center, 200 Oak Street SE, Minneapolis, MN 55455. Grant: $149,578.

Southwest

16. Louisiana State University, Dr. Gregory Vincent, Louisiana State University, 330 Thomas Boyd Hall, Baton Rouge, LA 70803. Grant: $399,766.

17. University of Texas at Brownsville and Texas Southmost College, Dr. Delina Barrera, University of Texas at Brownsville and Texas Southmost College, 80 Fort Brown, Brownsville, TX 78520. Grant: $399,000.

Great Plains

18. University of Missouri-St. Louis, Dr. Alan Artibise, University of Missouri-St. Louis, 341 Woods Hall, 8001 Natural Bridge Road, St. Louis, MO 63121. Grant: $399,566.

19. University of Nebraska-Lincoln, Norm Braaten, University of Nebraska-Lincoln, 303 Administration Building, Lincoln, NE 68588. Grant: $388,914.

Rocky Mountains

20. University of Colorado at Denver, Dr. Tony Robinson, University of Colorado at Denver Campus Box 129, P.O. Box 173364, Denver, CO 80217. Grant: $149,917.

Pacific/Hawaii

21. California State Polytechnic Institute, Pomona, Dr. Audrey Fine, California State Polytechnic Institute, Pomona, 3801 West Temple Avenue, Pomona, CA 91768. Grant: $399,979.

22. University of California, Irvine, Keith Taylor, University of California, Irvine, 160 Administration Building, Irvine, CA 92697. Grant: $149,505.

23. University of California, San Diego, Dr. Vivian Reznik, University of California, San Diego, 9500 Gilman Drive, 0934, La Jolla, CA 92093. Grant: $150,000.

24. University of the Pacific, Carol Brodie, University of the Pacific, 3601 Pacific Avenue, Stockton, CA 95211. Grant: $399,643.

Dated: October 4, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–26334 Filed 10–18–01; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–FA–35]

Announcement of Funding Awards for the Indian Housing Drug Elimination Program for Fiscal Year 2001

AGENCY: Office of Native American Programs, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Fiscal Year 2001 Notice of Funding Availability (NOFA) for the Indian Housing Drug Elimination Program (IHDEP). This announcement contains the consolidated names and addresses of these award recipients under the IHDEP.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Indian Housing Drug Elimination Program awards, contact Barbara Gallegos, Office of Native Programs, Denver Program Office, 1999 Broadway, Suite 3390, Denver, CO 80202, telephone 1–800–561–5913 or the Indian Housing Drug Elimination Program Resource Center at 1–800–839–5561. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The $12 million appropriated to fund the IHDEP was made available from the FY 2001 HUD Appropriation Act (Pub.L. 106–377, approved October 27, 2000). This program provides grants to Indian tribes and tribally designated housing entities (TDHEs) to eliminate drugs and drug-related crime in American Indian and Alaskan Native communities.

The FY 2001 awards announced in this Notice were selected for funding in a competition announced in a NOFA published in the **Federal Register** on February 26, 2001 (66 FR 11963). Applications were scored and selected for funding based on the selection criteria in that Notice and a national competition.

In accordance with Section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat.1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 50 awards made under the national competition in Appendix A to this document.

Dated: October 12, 2001.

Michael Liu,

Assistant Secretary for the Office of Public and Indian Housing.

APPENDIX A.—AWARDED APPLICANTS FY 2001 INDIAN HOUSING DRUG ELIMINATION PROGRAM

Applicant name	Contact	Address	City	State	Zipcode	Total
Bering Straits Regional Housing Authority.	Mr. Wayne Mundy	P.O. Box 995	Nome	AK	99762	$173,700
Cook Inlet Housing Authority	Ms. Carol Gore ...	3510 Spenard Road, Suite 201.	Anchorage	AK	99503	133,500
North Pacific Rim Housing Authority	Mr. Olen Harris ...	8300 King Street	Anchorage	AK	99518	75,300
Tagiumiullu Nunamiullu Housing Authority.	Mr. Delbert Rexford.	P.O. Box 409	Barrow	AK	99723	169,200
Tlinget-Haida Regional Housing Authority.	Mr. Blake Kazama	5446 Jenkins Dr., P.O. Box 32237.	Juneau	AK	99803	172,500
Poarch Band of Creek Indians Housing Development.	Mr. Fred McGhee	5811 Jack Springs Rd.	Atmore	AL	36502	61,500
Gila River Department of Community Housing.	Ms. Joyce Eddie	P.O. Box 528	Sacaton	AZ	85247	316,500
Navajo Nation	Mr. Kelsey Begaye.	P.O. Box 9000	Window Rock	AZ	86515	1,500,000
Tohono O'Odham Ki:Ki Association	Mr. Loren Goldtooth.	P.O. Box 790	Sells	AZ	85634	279,900
White Mountain Apache Housing Authority.	Mr. Victor Velasquez.	P.O. Box 1270	Whiteriver	AZ	85941	351,520
Concow-Maidu/Mooretown Rancheria.	Ms. Shirley Prusia	1 Alverda Drive ...	Oroville	CA	95966	15,000
Northern Circle Indian Housing Authority.	Ms. Darlene Tooley.	694 Pinoleville	Ukiah	CA	95482	50,700
Round Valley Indian Housing Authority.	Mr. Clifford Sloan	P.O. Box 682	Covelo	CA	95428	34,200
Southern Ute Indian Housing Authority.	Ms. Rachel Sorrell	P.O. Box 447	Ignacio	CO	81137	62,400
Seminole Tribe of Florida	Mr. James Billie ..	6300 Stirling Road.	Hollywood	FL	33024	140,100
Nez Perce Tribal Housing Authority	Ms. Cielo Gibson	P.O. Box 188	Lapwai	ID	83540	77,100
Pleasant Point Passamaquoddy	Mr. R. Clayton Cleaves.	RR1 Box 339	Perry	ME	04667	36,000
Bay Mills Housing Authority	Mr. Jeffrey Parker	3095 S. Towering Pines.	Brimley	MI	49715	60,900
Sault Ste Marie Tribe Housing Authority.	Ms. Jolene Nertoli	2218 Shunk Road	Sault Ste, Marie	MI	49783	129,600
Mille Lacs Health & Human Services Center.	Ms. Linda Lyons ..	43408 Oodena	Onamia	MN	56359	40,500
Choctaw Housing Authority	Mr. Morris Carpenter.	P.O. Box 6088, Choctaw Branch.	Philadelphia	MS	39350	282,300
Blackfeet Housing	Mr. Ray Wilson ...	PO Box 449	Browning	MT	59417	333,320
Fort Peck Assiniboine and Sioux Tribes.	Mr. Arlyn Headdress.	P.O. Box 1027	Poplar	MT	59155	330,000
Salish Kootenai Housing Authority ...	Mr. Robert Gauthier.	P.O. Box 38	Pablo	MT	59855	197,700
Qualla Housing Authority	Ms. Catherine Lambert.	P.O. Box 1749, Acquoni Road.	Cherokee	NC	29719	276,300

APPENDIX A.—AWARDED APPLICANTS FY 2001 INDIAN HOUSING DRUG ELIMINATION PROGRAM—Continued

Applicant name	Contact	Address	City	State	Zipcode	Total
Fort Berthold Housing Authority	Mr. Charles Moran.	P.O. Box 310	Newtown	ND	58763	202,200
Standing Rock Housing Authority	Mr. Ken Alkire	P.O. Box 484	Fort Yates		58538	275,400
Turtle Mountain Housing Authority ...	Ms. Becky Phelps	P.O. Box 620	Belcourt	ND	58316	396,760
Omaha Tribal Housing Authority	Ms. Erica Spears	P.O. Box 150	Macy	NE	68039	79,500
Zuni Housing Authority	Ms. Mary Ghahate.	P.O. Box 710, Pueblo of Zuni.	Zuni	NM	87327	192,900
Reno Sparks Indian Colony Tribal Council.	Mr. Arlan Melendez.	98 Colony Road ..	Reno	NV	89502	60,000
Washoe Housing Authority	Mr. Willard Bennett.	1588 Watasheamu Dr.	Gardnerville	NV	89410	46,500
Chickasaw Nation Division of Housing.	Mr. Wayne Scribner.	901 N. Country Club Road.	Ada	OK	74820	468,520
Housing Authority of the Cherokee Nation.	Mr. Chadwick Smith.	P.O. Box 948	Tahlequah	OK	74465	725,660
Housing Authority of the Chocktaw Nation of Oklahoma.	Mr. Russell Sossamon.	P.O. Box G	Hugo	OK	74743	562,900
Kaw Tribal Housing Authority	Ms. Maryln Springer.	#9 Kanza Lane, P.O. Box 371.	Newkirk	OK	74647	35,100
Cheyenne River Housing Authority ..	Mr. Wayne Ducheneaux.	P.O. Box 480	Eagle Butte	SD	57625	270,300
Oglala Sioux Lakota Housing	Mr. Richard Shangreaux.	P.O. Box C	Pine Ridge	SD	57770	395,980
Rosebud Sioux Tribe	Mr. James Waln ..	Box #69	Rosebud	SD	57570	326,700
Sisseton Wahpeton Housing Authority.	Mr. Ron Jones	P.O. Box 687	Sisselton	SD	57262	184,800
Yankton Sioux Tribal Housing Authority.	Mr. Joseph Abdo, Jr.	410 South Main Street.	Wagner	SD	57380	93,900
Lummi Indian Nation	Mr. William Jones	2616 Kwina Road	Bellingham	WA	98226	70,800
Skokomish Indian Tribe Housing Authority.	Ms. Elizabeth Griffin-Hall.	North 80 Tribal Center Road.	Shelton	WA	98584	23,700
Bad River Band of Lake Superior Tribe of Chippewa.	Mr. Eugene Bigboy, Sr.	P.O. Box 39	Odanah	WI	54861	57,900
Ho-Chunk Housing Authority	Ms. Myra Price	P.O. Box 546	Tomah	WI	54660	53,400
Lac Courtes Oreilles Indian Housing Authority.	Mr. J. Wm. Cadotte.	13416 W. Trepania Rd.	Hayward	WI	54843	135,000
Lac Du Flambeau Chippewa Housing Authority.	Ms. Natalie Poupart.	554 Chicog Street, P.O. Box 187.	Lac Du Flambeau ...	WI	54538	93,300
Menominee Indian Tribe of Wisconsin.	Mr. Wendell Askenette.	P.O. Box 910	Keshena	WI	54135	121,200
Eastern Shoshone Housing Authority	Ms. Cheryl Arthur	P.O. Box 1250	Ft. Washakie	WY	82514	87,900
Northern Arapaho Tribal Housing	Mr. Frank Armajo	P.O. Box 8236	Ethete	WY	82520	116,100

[FR Doc. 01–26333 Filed 10–18–01; 8:45 am]
BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4674–FA–03]

Announcement of Funding Awards for Fiscal Year 2001 Tribal Colleges and Universities Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 2001 Tribal Colleges and Universities Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards which are to be used to enable tribal colleges and universities to build, expand, renovate, and equip their own facilities, especially those that are available to and used by the larger community.

FOR FURTHER INFORMATION CONTACT: Barbara Holland, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8106, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 1–800–877–TTY, 1–800–877–8339, or 202–708–1455. (Telephone number, other than ''800'' TTY numbers are not toll free.)

SUPPLEMENTARY INFORMATION: The Tribal Colleges and Universities Program was enacted under section 107 of the CDBG appropriation for fiscal year 2001, as part of the ''Veterans Administration, HUD and Independent Agencies Appropriations Act of 2001'' and is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The Tribal Colleges and Universities Program enables tribal colleges and universities to build, expand, renovate, and equip their own facilities, especially those that are available to and used by the larger community. On May 11, 2001 (66 FR 24237), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $3 million in Fiscal Year 2001 funds for the Tribal Colleges and Universities Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD seven applications were funded. These grants, with their grant amounts are identified below.

The Catalog Federal Domestic Assistance number for this program is 14.519.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as follows:

List of Awardees for Grant Assistance Under the FY 2001 Tribal Colleges and Universities Program Funding Competition, by Name and Address

1. College of Menominee Nation, Dr. Holly Youngbear-Tibbetts, College of Menominee Nation, P.O. Box 1179, Keshena, WI 54135. Grant: $400,000.

2. Fort Belknap College, Carol Falcon-Chandler, Fort Belknap College, P.O. Box 159, Harlem, MT 59526. Grant: $400,000.

3. Institute of American Indian Arts, Carol Guzman, Institute of American Indian Arts, 83 Avan Nu Po Road, P.O. Box 22370, Santa Fe, NM 85702. Grant: $400,000.

4. Oglala Lakota College, Thomas Shortbull, Oglala Lakota College, 490 Piya Wiconi Road, Kyle, SD 57752. Grant: $400,000.

5. Little Big Horn College, Avis Three Irons, Little Big Horn College, P.I. Box 370, One Forestry Lane, Crow Agency, MT 59022. Grant: $399,563.

6. Southwestern Indian Polytechnic Institute, Dr. Carolyn Elgin, Southwestern Polytechnic Institute, P.O. Box 10146, Albuquerque, NM 87184. Grant: $400,000.

7. Turtle Mountain College, Dr. Gerald Monette, Turtle Mountain College, P.O. Box 340, Belcourt, ND 58316. Grant: 399,440.

Dated: October 4, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 01–26335 Filed 10–18–01; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–42]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: DOT: Mr. Rugene Spruill, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW., Room 2310, Washington, DC 20590; (202) 366–4246; ENERGY: Mr. Tom Knox, Department of Energy, Office of Engineering & Construction Management, CR–80, Washington, DC 20585; (202) 586–8715; GSA: Mr.Brian K. Polly, Assistant

Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; INTERIOR: Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., Washington, DC 20240; (202) 219–0728; NAVY: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: October 11, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

Title V, Federal Supplus Property Program Federal Register Report for 10/19/01

Suitable/Available Properties

Buildings (by State)

Nebraska

Federal Building
1709 Jackson
Omaha Co: NE 68102–
Landholding Agency: GSA
Property Number: 54200140002
Status: Excess
Comment: 6564 sq. ft., needs repair, soil to be tested, most recent use—office/storage
GSA Number: GSA000

Washington

Clarkston USARC
721 Sixth St.
Clarkston Co: Asotin WA
Landholding Agency: GSA
Property Number: 54200140003
Status: Excess
Comment: total approx. 5043 sq. ft., presence of asbestos, most recent use—military reserve center/office
GSA Number: 9–D–WA–1196

Land (by State)

Florida

Lakeland Federal Property
N. Florida Ave. & Five Oaks St.
Lakeland Co: Polk FL 33806–
Landholding Agency: GSA
Property Number: 54200140001
Status: Surplus
Comment: 2.46 acres, former commercial use, environmental remediation in process
GSA Number: 4–G–FL–1092

Texas

11.8 acres
NALF Cabaniss
Saratoga Blvd
Corpus Christi Co: Nueces TX 75702–
Landholding Agency: GSA
Property Number: 54200140005
Status: Surplus
Comment: 11.8 acres w/security fence, most recent use—agriculture purposes
GSA Number: 7–N–TX–1061

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. V001
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140001
Status: Excess
Reasons: Secured Area
Extensive deterioration

Bldgs. T003, T004
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140002
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B001
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140003
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B002
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140004
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B003
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140005
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B004
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140006
Status: Excess
Reason: Secured Area

Bldg. B006
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140007
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B008
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140008
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B009
Point Higgins
Ketchikan Co: AK 99901–
Landholding Agency: DOT
Property Number: 87200140009
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B011
Point Higgins
Ketchikan Co: AK 99901—
Landholding Agency: DOT
Property Number: 87200140010
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. B012
Point Higgins
Ketchikan Co: AK 99901—
Landholding Agency: DOT
Property Number: 87200140011
Status: Excess
Reason: Secured Area, Extensive deterioration

California

Brock Research Center
Range 19E
Imperial Valley Co: Imperial CA
Landholding Agency: Interior
Property Number: 61200140001
Status: Excess
Reason: Extensive deterioration

Bldg. PM7002
Point Mugu Site Naval Base
Oxnard Co: Ventura CA 93042–5000
Landholding Agency: Navy
Property Number: 77200140001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1244
Marine Corps Base
Camp Pendelton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140002
Status: Excess
Reason: Extensive deterioration

Bldg. 1331
Marine Corps Base
Camp Pendleton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140003
Status: Excess
Reason: Extensive deterioration

Bldg. 1364
Marine Corps Base
Camp Pendleton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140004
Status: Excess
Reason: Extensive deterioration

Bldg. 1674
Marine Corps Base
Camp Pendleton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140005
Status: Excess
Reason: Extensive deterioration

Bldg. 1229
Marine Corps Base
Camp Pendleton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140006
Status: Excess
Reason: Extensive deterioration

Bldg. 1242
Marine Corps Base
Camp Pendleton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140007
Status: Excess
Reason: Extensive deterioration

Bldg. 1243

Marine Corps Base
Camp Pendleton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140008
Status: Excess
Reason: Extensive deterioration

Bldg. 1253
Marine Corps Base
Camp Pendleton Co: CA 92055—
Landholding Agency: Navy
Property Number: 77200140009
Status: Excess
Reason: Extensive deterioration

Oregon

Bldg. 0320–00
Klamath Irrigation District
Klamath Falls Co: Klamath OR 97603–
Landholding Agency: Interior
Property Number: 61200140002
Status: Unutilized
Reason: Extensive deterioration

South Dakota

Residence
308 8th Ave South
Clearlake Co: Deuel SD 57226–
Landholding Agency: GSA
Property Number: 54200140004
Status: Surplus
Reason: Extensive deterioration
GSA Number: 7–J–SD–0552

Tennessee

Bldg. 81–22
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9409–26
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9723–4
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9733–4
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

4 Bldgs.
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9949–1
Y–12 National Security Complex
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41200140006
Status: Unutilized
Reason: Secured Area

[FR Doc. 01–26025 Filed 10–18–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection Submitted to OMB for Review Under the Paperwork Reduction Act

The proposal for the information collection described below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection, but may respond after 30 days; therefore comments on the proposal should be made directly to the Desk Officer for the Interior Department, Office of Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; and to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used:

3. The quality, utility, and clarity of the information to be collected; and

4. 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.

Title: North American Breeding Bird Survey.

Current OMB Approval Number: None.

Summary: The North American Breeding Bird Survey (BBS) is a long-term, large-scale avian monitoring program that was initiated in 1966 to track the status and trends of continental bird populations. Each spring, interested volunteers conduct 3-minute point counts of birds along roadsides across the United States. Data can be submitted electronically via the Internet or on hard copy. These data provide an index of population abundance that can be used to estimate population trends and relative abundances at various geographic scales. Declining population trends act as an early warning system to galvanize research to determine the causes of these declines and reverse them before populations reach critically low levels. The BBS currently provides population trend estimates for 420 bird species and raw data for more than 650 species via the web.

Estimated Annual Number of Respondents: 2500.

Estimated Annual Burden Hours: 12,500 hours.

Affected Public: Primarily U.S. residents.

For Further Information Contact: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

Dated: October 15, 2001.

Dennis B. Fenn,

Associate Director for Biology.

[FR Doc. 01–26368 Filed 10–18–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection Submitted to OMB for Review Under the Paperwork Reduction Act

The proposal for the information collection described below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance officer at the phone number listed below. OMB has up to 60 days to approve or disapprove the information collection, but may respond after 30 days; therefore comments on the proposal should be made directly to the Desk Officer for the Interior Department, Office of Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; and to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley

Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used:

3. The quality, utility, and clarity of the information to be collected; and

4. 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.

Title: North American Amphibian Monitoring Program.

Current OMB Approval Number: None.

Summary: The North American Amphibian Monitoring Program (NAAMP) is long-term, large-scale anuran monitoring program to track the status and trends of eastern and central North American frogs and toads. Volunteers conduct calling surveys of frogs and toads three to four times per year, depending on the regional species assemblage. Volunteers listen for 5 minutes at 10 stops along the route. Data are submitted electronically via the Internet or on hard copy. These data will be used to estimate population trends at various geographic scales. Declining population trends can act as an early warning system to galvanize research to determine the causes of these declines and reverse them before populations reach critically low levels.

Estimated Annual Number of Respondents: 100.

Estimated Annual Burden Hours: 7,000 hours.

Affected Public: Primarily U.S. residents.

For Further Information Contact: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

Dated: October 15, 2001.

Dennis B. Fenn,

Associate Director for Biology.

[FR Doc. 01–26369 Filed 10–18–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of renewal.

SUMMARY: This notice announces that the Information Collection Request for the Indian Service Population and Labor Force Estimates, OMB No. 1076–0147, requires renewal. The Bureau of Indian Affairs (BIA) in accordance with the Paperwork Reduction Act is soliciting comments on the proposed information collection.

DATES: Submit comments on or before December 18, 2001.

ADDRESSES: Your comments and suggestions on the requirements should be made directly to Mr. Harry Rainbolt, Budget Officer, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street NW., MS–4660–MIB, Washington, DC 20240. Telephone (202) 208–3463.

FOR FURTHER INFORMATION CONTACT: Copies of the documents contained in the information collection request may be obtained by contacting Mr. Harry Rainbolt at (202) 208–3463.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information is mandated by Congress through Public Law 102–477, Indian Employment, Training and Related Services Demonstration Act of 1992, section 17. The Act requires the Secretary to develop, maintain and publish, not less than biennially, a report on the population by gender, income level, age, service area, and availability for work. The information is used by the U.S. Congress, other Federal agencies, State and local governments and private sectors for the purpose of developing programs, planning, and to award financial assistance to American Indians. An agency may not conduct or sponsor, nor is any person required to respond to a collection of information unless it displays a currently valid OMB control number.

II. Request for Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

2. The accuracy of the BIA's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and,

4. How to minimize the burden of the information collection on those who are to respond, including the use of appropriate automated electronic, mechanical or other forms of information technology.

III. Data

Title of the Collection of Information: Department of the Interior, Bureau of Indian Affairs, Indian Service Population and Labor Force Estimates.

OMB Number: 1076–0147.

Affected Entities: American Indians and Alaska Natives, members and non-members, who are living on or near the tribe's defined service area and who are eligible for Bureau of Indian Affairs services.

Frequency of Response: Biennially.

Estimated Number of Biennial Responses: 561.

Estimated Time per Response: ½ hour.

Estimated Total Annual Burden Hours: 140 hours annually.

Dated: October 4, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–26445 Filed 10–18–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 11, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Interstate Arrangement for Combining Employment and Wages.

OMB Number: 1205–0029.

Affected Public: State, Local, or Tribal Government.

Frequency: Quarterly.

Number of Respondents: 53.

Number of Annual Responses: 212.

Estimated Time Per Response: 4 hours.

Total Burden Hours: 848.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The data collected on the Form ETA–586 are authorized by 20 CFR Part 616 and Section 303(a)(6) of the Social Security Act. The ETA–586 report provides the Secretary of Labor with information necessary to measure the scope and effect of the program for combining employment and wages and to monitor the performance of each State in responding to wage transfer requests and the payment of benefits.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–26343 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission or OMB Review; Comment Request

October 11, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: New collection.

Agency: Employment and Training Administration (ETA).

Title: Unemployment Insurance Data Validation Program.

OMB Number: 1205–ONEW.

Affected Public: State, Local, or Tribal Government; Federal Government.

Number of Respondents: 53.

Type of Response: Reporting.

Requirement	Number of annual responses	Frequency	Estimated time per response (hours)	Annual burden hours.
Full Data Validation	18	Every 3 years	1,600	28,267
Partial Data Validation [1]	12	Annually	160	1,920
Totals	30			30,187

[1] Partial data validation only occurs in years when full data validation is not conducted.

Total Annualized Capital/Startup Costs: $3,525,000.

Total Annual Costs (operating/maintaining systems of purchasing services): $873,612.

Description: In accordance with Section 303(a)(6) of the Social Security Act, The Unemployment Insurance Data Validation Program would require States to implement and operate a system for ascertaining the validity of unemployment insurance data they submit to ESA. Some of these date are used to assess performance or determine State grants for UI administration.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–26344 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 10, 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) 219–8904 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Application for Continuation of Death Benefit for Student.

OMB Number: 1215–0073.

Affected Public: Individuals or households and Business or other for-profit.

Frequency: On Occasion.

Number of Respondents: 43.

Number of Annual Responses: 43.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 22.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act. This Act was amended on October 27, 1972, to provide for continuation of death benefits for a child or certain other surviving dependents after the age of 18 years (to age 23) if the dependent qualifies as a student as defined in section 2(18) of the Act.

The information collected from Form LS–266 is used by OWCP to assure that a claimant receives all of the benefits under the Act to which he/she may be entitled. If the information were not collected, there would be no way to determine the proper status of a student and his/her continued entitlement to benefits.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–26345 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4461 and TA–W–38,601]

Arka Knitwear, Ridgewood, NY; Notice of Revised Determination on Reconsideration

By letter of April 15, 2001, the company official requested administrative reconsideration of the Department's denial of North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA–TAA) and Trade Adjustment Assistance (TAA), applicable to workers of Arka Knitwear, Ridgewood, New York, The notice were published in the **Federal Register** on April 16, 2001, NAFTA–4461 (66 FR 19522), and TA–W–38,601 (66 FR 19520).

The workers are primarily engaged in the production of sweaters.

The workers were denied NAFTA–TAA on the basis that there was no shift in production to Mexico or Canada, nor were there company or customer imports of sweaters from Mexico or Canada. The workers were denied TAA because the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met.

The company has presented documents from major declining customers of the subject firm. This evidence shows that these customers stopped purchasing sweaters from the subject firm and began using Mexico and other countries to source their sweater purchases.

An examination of trade data for women's and girls' sweaters reveals that from 1999 to 200, aggregate U.S. imports increased absolutely and relative to domestic shipments. In 2000, the import/shipments ratio exceeded 200 percent.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Arka Knitwear, Ridgewood, New York, were adversely affected by increased imports (including those from Mexico) of articles like or directly competitive with sweaters produced at the subject firm.

''All workers of Arka Knitwear, Ridgewood, New York, who became totally or partially separated from employment on or after January 12, 2000, through two years from the date of certification, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974;'' and

''All workers of Arka Knitwear, Ridgewood, New York, who became totally or partially separated from employment on or after January 12, 2000, through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 28th day of September 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26357 Filed 10–18–01 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September and October, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the

separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Workers Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,813A & B; Greenwood Mills, Inc., Chalmers Plant, Greenwood, SC and Greenwood Mills, Inc., Lindale Manufacturing, Lindale, GA
TA–W–39,708; Globe Metallurgical, Springfield, OR
TA–W–39,016; Wabash Alloys LLC, Oak Creek, WI
TA–W–38,103; Sierra Pine Limited, Springfield Particleboard Div., Springfield, OR
TA–W–39,237; International Paper, Sheet Plant, Tupelo, MS
TA–W–39,648; Greg Stout Logging, Inc., Gold Hill, OR
TA–W–39,687; Ohio Industries, Bucyrus, OH
TA–W–39,394; Pittsburgh Gear Works, Inc., Pittsburgh, PA
TA–W–39,621; Franklyn Industries, div. of the Merrow Machine Co., Inc., Lavonia, GA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,978; Hein-Werner, Snap-On, Inc., Barboo, WI
TA–W–39,798; Friedrich & Dimmock, Inc., Millville, NJ
TA–W–39,709; Gemtron Corp., Clarksville, TN
TA–W–39,392; Aavid Thermalloy LLC, Dallas, TX
TA–W–39,165; E.C.I. Sportswear, Inc., New Bedford, MA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–39,970; KOA Speer Electronics, Inc., Bradford, PA
TA–W–40,026; American DeRosa Lamp Parts, Commerce, CA
TA–W–39,161; Almond International, Westbury, NY

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–39,848; Trane Co., A Division of American Standard, LaCrosse, WI.
TA–W–39,669; Conneaut Industries, Inc., West Greenwich, RI

The investigation revealed that criteria (1) and (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,162; ME International, Inc., Duluth, MN

The investigation revealed that criteria (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,109; Alcoa, Inc., St. Lawrence Plant, Massena, NY

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,822; Sweetwater Walls Industries, Inc., Sweetwater, TX: July 24, 2000.
TA–W–39,273; United States Steel LLC, Fairless Hills, PA: May 4, 2000.
TA–W–38,764; Brown Wooten Mills, Inc., Ballston Plant, Mt. Airy, NC: February 1, 2000.
TA–W–39,712; Signet Armorlite, Inc., San Marcos, CA: July 17, 2000.
TA–W–38,880; Cooper Energy Services, Ajax-Superior Div., Springfield, OH: March 6, 2000.
TA–W–39,607; UniFirst Corp., Wilburton, OK: June 18, 2000.
TA–W–39,368; Siemens Automotive Corp., Safety Electronics Div., Johnson City, TN: May 18, 2000.
TA–W–39,820; Tyco Electronics, Shrewsbury Molding Plant, Shrewsbury, PA: July 24, 2000.
TA–W–39,728; Graphic Controls, Cherry Hill Facility, Including Temporary Workers of Kaye Personnel, Inc., Cherry Hill, NJ: July 10, 2000.
TA–W–39,943; Realco Diversified, Inc., Meadville, PA: August 14, 2000.
TA–W–39,783; Plasticsource, Inc., Kelly Staff Leasing, El Paso, TX: July 26, 2000.
TA–W–39,445; Thomason Multimedia, Inc., ATO Division, Dunmore, PA May 16, 2000.
TA–W–39,813; Greenwood Mills, Inc., Executive Office, Greenwood, SC: August 1, 2000
TA–W–39,813C; Greenwood Mills, Inc., Aquatech Manufacturing, Inc., Cookeville, TN: November 11, 2001.
TA–W–39,953; Zexel Valeo Compressor USA, Decatur, IL: August 17, 2000.
TA–W–39,827; Southeast Mat Co., Crossville, TN: July 30, 2000.
TA–W–39,847; United Tool and Die, Inc., Meadville, PA July 30, 2000.
TA–W–39,198 & A; Stanley Mechanics Tools, Dallas, TX and Wichita Falls, TX: March 14, 2000.
TA–W–39,515; Teledyne Technologies, Teledyne Relays, Hawthorne, CA: June 4, 2000.
TA–W–39,976; VF Imagewear (West), Inc., Harriman, TN: August 22, 2000.
TA–W–39,823; Louisville/Saydah Home Fashions, Eminence, KY: July 11, 2000.
TA–W–39,752; Sola Optical USA, Inc., Eldon, MO: July 20, 2000.
TA–W–39,821; Clifton Walls Industries, Inc., Clifton, TX: July 24, 2000.
TA–W–39,731; Matsushita Refrigeration Company of America, Vonore, TN: July 16, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of September and October, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05261; Hein-Werner, Snap-On, Inc., Braboo, WI
NAFTA–TAA–04822; ME International, Inc., Duluth, MN
NAFTA–TAA–05176; Greenwood Mills, Lindale Manufacturing Co., Lindale, GA
NAFTA–TAA–05163; Tyco Electronics, Fiber Optics Div., Glen Rock, PA
NAFTA–TAA–05053; Greg Stout Logging, Inc., Gold Hill, OR
NAFTA–TAA–05201; AC Enterprises Construction and Fab, Inc., Fargo, ND
NAFTA–TAA–04761; Sierra Pine Limited, Springfield Particleboard Div., Springfield, OR

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

NAFTA–TAA–05340; Qwest Wireless, Wireless Customer Care Center, Denver, CO

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05209; Layne Christensen, Christensen Mining Products, Salt Lake City, UT: August 8, 2000.
NAFTA–TAA–05193; Micro Motion, Inc., Boulder, CO: August 7, 2000.
NAFTA–TAA–05182; Sweetwater Walls Industries, Inc., Sweetwater, TX July 24, 2000
NAFTA–TAA–05205; Signet Armorlite, Inc., San Marcos, CA: July 17, 2000.
NAFTA–TAA–05056; Bike Athletic Co., Mountain City, TN: July 9, 2000.
NAFTA–TAA–04887; Siemens Automotive Corp., Safety Electronics Div., Johnson City, TN: May 9, 2000.
NAFTA–TAA–05100; International Components Technology Corp., San Jose, CA
NAFTA–TAA–05263; VF Imagewear (West), Inc., Harriman, TN: August 22, 2000.
NAFTA–TAA–04992; Teledyne Technologies, Teledyne Relays, Hawthorne, CA: June 4, 2000.
NAFTA–TAA–05239; Rundel Products, Inc., Portland, OR: August 22, 2000.
NAFTA–TAA–05181; Clifton Walls Industries, Inc., Clifton, TX: July 24, 2000.
NAFTA–TAA–05138; Power One, Allston, MA: July 18, 2000.
NAFTA–TAA–05132; Gemtron Corp., Clarksville, TN: July 17, 2000.

I hereby certify that the aforementioned determinations were issued during the month of September and October, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 12, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26349 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,449 and NAFTA–04386]

Hasbro Manufacturing Services, El Paso, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Hasbro Manufacturing Services, El Paso, Texas. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–39,449 and NAFTA–04386; Hasbro Manufacturing Services, El Paso, Texas (October 5, 2001)

Signed at Washington, DC, this 12th day of October, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26350 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,069 and NAFTA–04632]

Rosboro Lumber Company, Mill A, Springfield, OR; Notice of Negative Determination Regarding Application for Reconsideration

By application of May 1, 2001, the petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA) under petition TA–W–39,069 and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) under NAFTA–4632. The denial notices applicable to workers of Rosboro Lumber Company, Mill A, Springfield, Oregon, were signed on April 30, 2001 (TA–W–39,069), and April 19, 2001 (NAFTA–6432) and published in the Federal Register on Mau 18, 2001 (66 FR 27690) and May 3, 2001 (66 FR 22262), respectively.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If its appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Rosboro Limber Company, Mill A, Springfield, Oregon, producing softwood dimension lumber (primary product produced at the plant), was denied because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no increased customer imports of softwood dimension lumber during the relevant period. The investigation further revealed that the subject company did not import softwood dimensional lumber during the relevant period.

The NATA–TAA petition for the same worker group was denied because criteria (3) and (4) of the group eligibility requirements in paragraph (a)(1) of Section 250 of the Trade Act, as amended, were not met. A surveys was conducted and revealed that customers did not increase their imports of softwood dimensional lumber from Mexico or Canada during the relevant period. The subject firm did not import softwood dimensional limber from Mexico or Canada, nor was production of softwood dimensional lumber shifted from the workers' firm to Mexico or Canada.

The petitioner alleges that the mill produced another product (lam-stock) and that product was being imported by

the mill from Canada to the United States. Although the mill produced lam-stock (considered dimensional lumber of a higher quality) it accounted for a very low portion of mill production. The company reported importing lam-stock from Canada during the relevant period. However, since the workers are not separately identifiable at the mill by dimensional lumber type and the overwhelming majority of softwood dimensional lumber is of a different grade, the imports of lam-stock can not be considered a major contributing factor to the layoffs at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, D.C., this 4th day of October, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26359 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,693 and NAFTA–04514]

Summit Timber Company Darrington, WA, Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of May 14, 2001, the company requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notices were signed on April 6, 2001, and were published in the **Federal Register** on May 2, 2001 (66 FR 22006) and (66 FR 22007), respectively.

The company supplied an additional list of customers which was not supplied during the initial investigation. The company believes these customers may be importing softwood lumber during the relevant period.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 24th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26356 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4631 and TA–W–38,855]

Willamette Industries, Inc., Foster Plywood Division, Sweet Home, OR; Notice of Revised Determination on Reconsideration

By letter (postmark) of May 22, 2001, the International Association of Machinists & Aerospace Workers, Woodworkers (IAMAW), Local Lodge W246, requested administrative reconsideration of the Department's denial of North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA–TAA) and Trade Adjustment Assistance (TAA), applicable to workers of Willamette Industries, Inc., Foster Plywood Division, Sweet Home, Oregon. The notices were published in the **Federal Register** on May 2, 2001, NAFTA–4631 (66 FR 22007), and TA–W–38,855 (66 FR 22006).

The workers at the subject firm engaged in activities related to the production of plywood were denied NAFTA–TAA because criteria (1) and (2) of the group eligibility requirements of paragraph (a)(1) of Section 250 of the Trade Act of 1974, as amended, were not met. The number of workers separated did not account for a significant portion of total workers at the subject firm and there were no declines in sales or production of plywood at the subject firm.

The same worker group was denied TAA because criteria (1) and (2) of the group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. The number of workers separated did not account for a significant portion of total workers at the subject firm and there were no declines in sales or production of plywood at the subject firm.

The request for reconsideration indicates that the worker group impacted at the subject plant were engaged in activities related to the production of veneer core. The request further indicates that veneer core production decreased at the subject plant. The original determinations were based on the workers engaged in activities related to the production of plywood and workers not being separately identifiable at the subject plant. Upon examination of the request it has become apparent that the workers engaged in the production of veneer core (which is integrated into plywood production at the subject plant) are separately identifiable from the workers producing plywood. Also, layoffs within the worker group producing veneer core are significant. The review further reveals that the plant decreased their veneer core production, while increasing their imports of veneer core from Canada during the relevant period.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that increased imports of veneer core, including imports from Canada, contributed importantly to the decline in production and to the total or partial separation of workers at Willamette Industries, Inc., Foster Plywood Division, Sweet Home, Oregon. In accordance with the provisions of the Act, I make the following revised determination:

''Workers engaged in the production of veneer core at Willamette Industries, Inc., Foster Plywood Division, Sweet Home, Oregon, who became totally or partially separated from employment on or after March 1, 2000, through two years from the date of certification, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974;'' and

''Workers engaged in the production of veneer core at Willamette Industries, Inc., Foster Plywood Division, Sweet Home, Oregon, who became totally or partially separated from employment on or after March 1, 2000, through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 28th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26355 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,636]

Cookson Pigments, Inc., Newark, NJ; Notice of Negative Determination Regarding Application for Reconsideration

By application of April 18, 2001, the company requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of Cookson Pigments, Inc., Newark, New Jersey, was issued on March 12, 2001, and was published in the **Federal Register** on April 16, 2001 (66 FR 19520).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner request states that the worker were retained for the purpose of decommissioning and the demolition of the subject facility. The petitioner requests Trade Adjustment Assistance eligibility for the worker group based on the initial Trade Adjustment Assistance certification which expired on June 6, 1999. Production ceased at the subject plant during October 1998. The workers have not produced a product since October 1998, and therefore, are considered to be performing a service during the relevant period.

Only in very limited instances are service workers certified for TAA, namely for worker separations must be caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under a certification for TAA.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 24th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26363 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,887]

Huntsman Polymers, Odessa, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 27, 2001, in response to a petition filed on behalf of workers at Huntsman Polymers, Odessa, Texas.

Petition TA–W–39,887 is a duplicate of a previous petition (TA–W–39,780), which was certified on August 29, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 19th day of October, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26353 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 29, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 29, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 17th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 09/17/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
39,996	PixTech, Inc. (Co.)	Boise, ID	08/29/2001	Flat and Panel Displays.
39,997	Keokuk Ferro-Sil, Inc. (Co.)	Keokuk, IA	08/23/2001	Ferrosilion.
39,998	Cook Technologies, Inc. (Co.)	Green Lane, PA	08/23/2001	Welded Parts for Electric Carts.
39,999	Gerber Childrenswear (Co.)	Pelzer, SC	08/20/2001	Children's Bed and Bath Products.
40,000	Brother Industries USA (Co.)	Bartlett, TN	08/20/2001	Typewriter Assemblies.

APPENDIX—Continued

[Petitions instituted on 09/17/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,001	Crowe Rope Industries (Co.)	Searsmont, ME	08/29/2001	Twine and Small Rope.
40,002	PDS Railcar Services (BRTIU)	Port Huron, MI	08/27/2001	Repair & Maintain Railroad Cars.
40,003	HPM Corp./HPM Remanufact (IAMAW)	Mt. Gilead, OH	08/21/2001	Injection Molding Machines.
40,004	Baldor Motors and Drives (Wrks)	Plymouth, MN	08/23/2001	Electric AC and DC Drives.
40,005	SDK Knitting, Inc. (Co.)	Schaefferstown, PA	08/25/2001	Commission Knitting/Fabric.
40,006	Planar Systems, Inc. (Wrks)	Lake Mills, WI	08/23/2001	Liquid Crystal Displays.
40,007	Desa International (Wrks)	Shelbyville, TN	08/27/2001	Sheet Metal Fireplaces.
40,008	Summit Circuits, Inc. (UFCW)	Fort Wayne, IN	08/28/2001	Printed Circuit Boards.
40,009	JC Surrey 2001, Inc. (Wrks)	Leander, TX	08/24/2001	Luxury Glycerin Soaps.
40,010	Seville Dyeing Co., Inc. (Wrks)	Woonsocket, RI	08/24/2001	Textile Processing.
40,011	Cliffs Mining Service (Wrks)	Hibbing, MN	08/16/2001	Taconite Mining.
40,012	Forsheda Engineered Seals (Co.)	Vandalia, IL	08/27/2001	Automotive Gaskets.
40,013	Crompton Colors, Inc. (Co.)	Newark, NJ	08/27/2001	Organic Dyes and Intermediates.
40,014	MECO Corp. (Wrks)	Greeneville, TN	08/26/2001	Metal Folding Furniture.
40,015	Versatile Mold and Design (Co.)	Rutledge, GA	08/28/2001	Molds for Plastic Industry.
40,016	AVX Corp. (Wrks)	Myrtle Beach, SC	08/28/2001	Electrical Capacitors.
40,017	UniFirst Corp (Co.)	Cave City, AR	08/28/2001	Apparel.
40,018	Trailmobile Trailer LLC (Wrks)	Liberal, KS	08/28/2001	Dry Freight and Refrigerated Trailers.
40,019	Carolina Mills, Inc. (Co.)	Gastonia, NC	08/29/2001	Textile Yarns.
40,020	Continental Fabric, Inc (Co.)	Gloversville, NY	08/29/2001	Fabrics.
40,021	Alba-Waldensian, Inc. (Co.)	Rutherfordton, NC	08/27/2001	Knitted Intimate Apparel.
40,022	Anderson Greenwood/Tyco (UAW)	Wrentham, MA	08/29/2001	Pressure Relief Valves.
40,023	Nation Ford Chemical Co. (Wrks)	Fort Mill, SC	08/27/2001	Synthetic Organic Chemicals.
40,024	Phillips-Van Heusen (Co.)	Ozark, AL	08/28/2001	Men's Dress Shirts.
40,025	Bramton Co. (The) (Wrks)	Dallas, TX	08/20/2001	Cloth Pet Products.
40,026	American De Rosa Lamp (Wrks)	Commerce, CA	08/27/2001	Warehousing & Distribution of Lamp Parts.
40,027	Hayward Pool Products (Co.)	Kings Mountain, NC	08/30/2001	Pool Products.
40,028	Story and Clark Piano Co. (Wrks)	Seneca, PA	08/30/2001	Pianos—Upright and Grand.
40,029	Jackson Precision Diecast (Co.)	Jackson, MI	08/22/2001	Transmission Bushing, Dies.
40,030	Brown and Sharpe (Wrks)	No. Kingstown, RI	08/31/2001	Coordinate Measuring Machines.
40,031	Laclede Steel (Wrks)	Vandalia, IL	08/28/2001	Pipe and Conduit.
40,032	Laclede Steel (USWA)	Alton, IL	08/29/2001	Semi-Finished Tubular, Bar.
40,033	Kraft Foods (Wrks)	Allentown, PA	08/31/2001	Spoonables, Purables & Bar-B-Que.
40,034	D and M Tool, Inc. (Wrks)	Meadville, PA	08/30/2001	Molds, and Dies.
40,035	Eagle Veneer, Inc. (Wrks)	Harrisburg, OR	08/31/2001	Engineered Wood Products.
40,036	Poly One Corp (Co.)	Corona, CA	08/30/2001	Compounded Plastics.
40,037	Glad Rags, Inc. (Wrks)	Buchanan, VA	08/31/2001	Ladies' Apparel.
40,038	HH Smith, Inc. (Co)	Meadville, PA	08/31/2001	Electrical Connectors and Hardware.
40,039	TNS Mills, Inc. (Co.)	Rockingham, NC	08/30/2001	Ring Spun Yarns.
40,040	United Metal Fabricators (UMWA)	Johnstown, PA	08/27/2001	Hospital Cabinets, Exam Tables.
40,041	Magee Apparel Co (Co.)	Magee, MS	08/23/2001	Jeans & Related Apparel Bottoms.
40,042	WP Textiles Processing (Co.)	Richmond, VA	09/04/2001	Textile Pigment Printing.
40,043	Steelcase Architectural (Co.)	Solon, OH	08/24/2001	Movable Walls.
40,044	Boldt Metronics Int'l (Wrks)	Schaumburg, IL	08/23/2001	Metal Metronics Components.
40,045	Maxell Corp. of America (Co.)	Conyers, GA	08/28/2001	Video Cassettes.
40,046	Parker Hannifin Corp (Co.)	Lincolnshire, IL	08/31/2001	Hydraulic Components.
40,047	Carol Ann Fashions Corp (Wrks)	Hastings, PA	08/31/2001	Ladies' Skirts and Pants.
40,048	Three-Five Systems, Inc. (Wrks)	Tempe, AZ	08/17/2001	LCD Displays.
40,049	Daniel Measurement (Co.)	Statesboro, GA	09/05/2001	Valves and Turbines.
40,050	Moco Thermal Industries (PACE)	Caseville, MI	08/27/2001	Customer Designed Ovens.
40,051	Prime Tanning Co., Inc. (Co.)	Rochester, NH	09/04/2001	Leather for Shoes and Handbags.
40,052	Emsar, Inc. (Co.)	Bridgeport, CT	08/30/2001	Molded Spray Pumps.
40,053	Hagale Apparel, Inc. (Co.)	Kinston, NC	09/04/2001	Men's Shirts.
40,054	Fairchild Semiconductor (Wrks)	Mountaintop, PA	09/02/2001	Power Semiconductors.
40,055	GFC Fabricating LLC (Wrks)	Berwick, PA	08/31/2001	Elastic Material for Disposable Diapers.
40,056	Joint Venture Tool (Co.)	Saegertown, PA	08/13/2001	Mold Designs.
40,057	Virginia Glove (Wrks)	Glade Springs, VA	08/31/2001	Work Gloves.
40,058	Belco Tool and Mfg, Inc (Comp)	Meadville, PA	08/29/2001	Plastics Injection Molds.

[FR Doc. 01–26358 Filed 10–18–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,470]

Plum Creek Timber, Pablo, MT; Notice of Revised Determination on Reconsideration

On June 25, 2001, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on July 11, 2001 (66 FR 36332).

The initial petition investigation for workers at Plum Creek Timber Company, Pablo, Montana, TA–W–38,470, was denied based on the finding that customers of the subject firm did not increase import purchases of softwood dimension lumber.

The company's request for reconsideration stated the articles produced at the plant were one-inch boards, not softwood dimension lumber.

On reconsideration, the Department conducted another survey of Plum Creek Timber's customers regarding their purchases in 1998, 1999 and January through September 2000, of one-inch (1″) boards and like or directly competitive products. The survey revealed that customers increased import purchases of one-inch boards while reducing purchases from Plum Creek Timber.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with increased imports of articles like or directly competitive with one-inch boards, contributed importantly to the decline in sales or production and to the total or partial separation of workers of Plum Creek Timber Company, Pablo, Montana. In accordance with the provisions of the Act, I make the following revised determination:

All workers of Plum Creek Timber Company, Pablo, Montana, who became totally or partially separated from employment on or after December 4, 1999, through two years from the date of this issuance, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 26th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26362 Filed 10–18–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,698]

Powermatic Corporation, Walter Meyer Holding, AG, McMinnville, TN; Notice of Negative Determination Regarding Application for Reconsideration

By application of May 30, 2001, the United Steelworkers of America (USWA), District 9, requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for trade adjustment assistance, applicable to workers of the subject firm. The denial notice was signed on April 6, 2001, and was published in the **Federal Register** on May 2, 2001 (66 FR 22006).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition denial for the workers of Powermatic Corporation, Walter Meyer Holding, AG, McMinnville, Tennessee was denied based on the finding that criterion (2) of the group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. Sales and/or production at the plant did not decline.

The request for reconsideration states that the Union and workers are of the opinion that plant sales and/or production decreased absolutely. The USWA also asserts that the products produced at the plant have been adversely affected by the use of imported components.

In response to components being imported by the company, it was determined in the original investigation that the company sourced out all components to domestic producers and then assembled industrial wood-working machinery at the plant. The components for the plants other product line (home-hobby) were always made in Taiwan and the end product assembled at the subject plant.

The USWA provided additional plant sales figures regarding the trends in sales for the time period corresponding to that of the initial investigation. The figures provided by the USWA depict increased sales similar to the period available during the original investigation.

Workers, the Union or company official may reapply for Trade Adjustment Assistance should conditions warrant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 28th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26361 Filed 10–18–01; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,379, and TA–W–39,379A]

Savannah Luggage Works, Vidalia, GA, Savannah Luggage Works, Swainsboro, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 23, 2001, applicable to workers of Savannah Luggage Works, Vidalia, Georgia. The notice was published in the **Federal Register** on September 11, 2001 (66 FR 47242).

At the request of the company, the Department reviewed the certification for workers of the subject firm. Information shows that worker separations occurred at the Swainsboro, Georgia location of the subject firm. Workers at the Swainsboro, Georgia location are engaged in the production of luggage.

Based on these findings, the Department is amending the certification to include workers of the Swainsboro, Georgia location of Savannah Luggage Works.

The intent of the Department's certification is to include all workers of Savannah Luggage Works who were adversely affected by increased imports of luggage.

The amended notice applicable to TA–W–39,379 is hereby issued as follows:

All workers of Savannah Luggage Works, Vidalia, Georgia (TA–W–39,379) and Swainsboro, Georgia (TA–W–39,379A), who became totally or partially separated from employment on or after May 14, 2000, through August 23, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26348 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,599]

Sherwood, Harsco Corporation, Lockport, NY; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 21, 2001, the petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on April 23, 2001, and published in the **Federal Register** on May 9, 2001 (66 FR 23733).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The denial of TAA for the workers of Sherwood, Harsco Corporation, Lockport, New York, was based on the finding that criterion (3) of the worker group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. A survey of customers indicated that increased imports did not contribute importantly to worker separations.

The request for reconsideration claims that the Department of Labor was supplied wrong information for the Lockport and Wheatfield, New York plants and that the knowledgeable source should be contacted for the correct information.

The specified company official was contacted and indicated that the subject workers also produced component parts for the LPG valves/industrial valves produced at the subject plant. The contact indicated that the company did not import LPG valves/industrial valves nor did the company import component parts used for the assembly of the valves produced at the subject plant. The contact further revealed that their competitors were importing valve parts and using those parts for the assembly of valves domestically.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the applied is denied.

Signed at Washington, DC, this 28th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26360 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,266]

TDK Ferrites Corporation, Shawnee, Oklahoma; Notice of Revised Determination on Reconsideration

By letter of September 10, 2001, the petitioners requested administrative reconsideration regarding the Department's Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination for the workers engaged in the production of CR core ferrites and micro cores ferrites issued on August 29, 2001, based on the finding that the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met. Also in the initial investigation the workers engaged in the production of EU core ferrites were certified eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974. The notice was published in the **Federal Register** on September 11, 2001 (66 FR 47241).

To support the petitioners' request for reconsideration, the company provided in evidence to show that the company increased their imports of CR core ferrites during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with CR core parts produced at TDK Ferrites Corporation, Shawnee, Oklahoma, contributed importantly to the decline in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of TDK Ferrites Corporation, Shawnee, Oklahoma, engaged in activities related to the production of CR core ferrites and EU core ferrites who became totally or partially separated from employment on or after April 25, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 24th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26364 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,440]

Triple-O, Inc., Roseburg, Oregon; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 18, 2001 in response to a petition filed by a company official on behalf of workers at Triple-O, Inc., Roseburg, Oregon.

This case is being terminated at the petitioner's request. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 9th day of October 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26354 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05224]

Eaton Corporation, Cutler-Hammer, Pittsburgh, PA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on August 20, 2001 in response to a petition filed on behalf of workers at Eaton Corporation, Cutler-Hammer, Pittsburgh, Pennsylvania.

The petitioner requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 28th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26365 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05223]

Eaton Corporation, Cutler-Hammer, Moon Township, PA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on August 20, 2001 in response to a petition filed on behalf of workers at Eaton Corporation, Cutler-Hammer, Moon Township, Pennsylvania.

The petitioner requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 28th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26366 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04867]

GE Harris Harmon Railway Technology Corp., Formerly Harmon Industries, Inc., Jacksonville, FL; Amended Certification Regarding Eligibility To Apply for NAFTA—Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C 2273), the Department of Labor issued a Certifcation for NAFTA Transitional Adjustment Assistance on August 21, 2001, applicable to workers of GE Harris Harmon Railway Technology, Jacksonville, Florida. The notice was published in the **Federal Register** on September 11, 2001 (66 FR 47243).

At the request of the State agency, the Department received the certification for workers of the subject firm. The workers were engaged in activity related to the production of railway signaling equipment. New information shows that the Department inadvertently failed to identify the subject firm title name in its entirety.

The Department is amending the certification determination to correctly identify the subject firm title name to read GE Harris Harmon Railway Technology, Formerly, Harmon Industries, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to NAFTA–04867 is hereby issued as follows:

All workers of GE Harris Harmon Railway Technology, formerly Harmon Industries, Inc., Jacksonville, Florida, who became totally or partially separated from employment on or after March 7, 2000, through August 21, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26347 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05047]

Graphic Controls, Cherry Hill Facility Including Temporary Workers of Kaye Personnel, Inc., Cherry Hill, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 150(A), Subchapter D, Chapter 2, Title II of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on September 10, 2001, applicable to workers of Graphic Controls, Cherry Hill Facility, Cherry Hill, New Jersey.

The notice was published in the **Federal Register** on September 21, 2001 (66 FR 48708).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that some employees of Graphic Controls were temporary workers from Kaye Personnel, Inc., Cherry Hill, New Jersey to produce softrans intrauterine pressure catheters, cables and leadwires at the Cherry Hill, New Jersey location of the subject firm.

Based on these findings, the Department is amending the certification to include temporary workers of Kaye Personnel, Inc. employed at Graphic Controls, Cherry Hill Facility, Cherry Hill, New Jersey.

The intent of the Department's certification is to include all workers of Graphic Controls, Cherry Hill Facility, Cherry Hill, New Jersey adversely affected by a shift of production to Mexico.

The amended notice applicable to NAFTA–5047 is hereby issued as follows:

All workers of Graphic Controls, Cherry Hill Facility, Cherry Hill, New Jersey including temporary workers of Kaye Personnel, Inc., Cherry Hill, New Jersey engaged in employment related to the production of softrans intrauterine pressure catheters, cables and leadwires at Graphic Controls, Cherry Hill Facility, Cherry Hill,

New Jersey who became totally or partially separated from employment on or after June 26, 2000 through September 10, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 4th day of October, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–26352 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04917]

Pratt & Whitney Hac, Grand Prairie, TX, Including Temporary Workers of Manpower, ABC Staffing and Resource Management International, Inc. Employed at Pratt & Whitney HAC, Grand Prairie, TX; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on September 10, 2001, applicable to workers of Pratt & Whitney HAC, Grand Prairie, Texas. The notice will be published soon in the **Federal Register.**

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State shows that some employees of the subject firm were temporary workers from Manpower, Grand Prairie, Texas, ABC Staffing, North Richland Hills, Texas and Resource Management International, Inc., Dallas, Texas to produce composites at the Grand Prairie, Texas location of the subject firm.

Based on these findings, the Department is amending the certification to include temporary workers of Manpower, Grand Prairie, Texas, ABC Staffing, North Richland Hills, Texas and Resource Management International, Inc., Dallas, Texas who were engaged in the production of composites at Pratt & Whitney HAC, Grand Prairie, Texas.

The intent of the Department's certification is to include all workers of Pratt & Whitney HAC, Grand Prairie, Texas adversely affected by a shift in production of composites to Mexico.

The amended notice applicable to NAFTA—04698 is hereby issued as follows:

All workers of Pratt & Whitney HAC, Grand Prairie, Texas, including temporary workers of Manpower, ABC Staffing, and Resource Management International, Inc, engaged in the production of composites at Pratt & Whitney HAC, Grand Prairie, Texas, who became totally or partially separated from employment on or after May 29, 2000, through September 10, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of September 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26351 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4920]

Triple-O, Inc., Roseburg, OR; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on June 1, 2001 in response to a petition filed by a company official on behalf of workers at Triple-O, Inc., Roseburg, Oregon.

This case is being terminated at the petitioner's request. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 9th day of October, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–26346 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used

in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-regulatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

District of Columbia
DC010001 (Mar. 2, 2001)
DC010003 (Mar. 2, 2001)
Maryland
MD010034 (Mar. 2, 2001)
MD010048 (Mar. 2, 2001)
MD010056 (Mar. 2, 2001)
MD010057 (Mar. 2, 2001)
Pennsylvania
PA010006 (Mar. 2, 2001)
Virginia
VA010025 (Mar. 2, 2001)
VA010050 (Mar. 2, 2001)
VA010078 (Mar. 2, 2001)
VA010079 (Mar. 2, 2001)
VA010099 (Mar. 2, 2001)

Volume III

None

Volume IV

Michigan
MI010001 (Mar. 2, 2001)
MI010002 (Mar. 2, 2001)
MI010003 (Mar. 2, 2001)
MI010004 (Mar. 2, 2001)
MI010005 (Mar. 2, 2001)
MI010007 (Mar. 2, 2001)
MI010010 (Mar. 2, 2001)
MI010011 (Mar. 2, 2001)
MI010016 (Mar. 2, 2001)
MI010020 (Mar. 2, 2001)
MI010027 (Mar. 2, 2001)
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MN010035 (Mar. 2, 2001)
MN010039 (Mar. 2, 2001)
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MN010062 (Mar. 2, 2001)

Volume V

None

Volume VI

Alaska
AK010001 (Mar. 2, 2001)
AK010002 (Mar. 2, 2001)
AK010006 (Mar. 2, 2001)
Idaho
ID010003 (Mar. 2, 2001)
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WA010001 (Mar. 2, 2001)
WA010002 (Mar. 2, 2001)
WA010003 (Mar. 2, 2001)
WA010006 (Mar. 2, 2001)
WA010007 (Mar. 2, 2001)
WA010010 (Mar. 2, 2001)

Volume VII

California
CA010004 (Mar. 2, 2001)
CA010009 (Mar. 2, 2001)
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CA010029 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
CA010031 (Mar. 2, 2001)
CA010034 (Mar. 2, 2001)
CA010037 (Mar. 2, 2001)
CA010041 (Mar. 2, 2001)

General Wage Determination Publication

General wage determination issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (http://davisbacon.fedworld.gov) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) if interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which

includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 11th day of October, 2001.

Carl Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–26039 Filed 10–18–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the administrators for coal mine safety and health and metal and nonmetal mine safety and health on petitions for modification of the application of existing safety standards.

SUMMARY: Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of an existing safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term ''FR Notice'' appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703–235–1910.

Dated at Arlington, Virginia, this 11th day of October, 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M–2001–002–C.
FR Notice: 66 FR 18658.
Petitioner: Kentucky May Mining.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the Genesis Mine. MSHA grants the petition for modification the Genesis Mine with conditions.

Docket No.: M–2001–003–C.
FR Notice: 66 FR 18658.
Petitioner: Eagle Coal Company, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the No. 18 Mine. MSHA grants the petition for modification for the No. 18 Mine with conditions.

Docket No.: M–2001–004–C.
FR Notice: 66 FR 18658.
Petitioner: Long Fork Development, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the No. 5 Mine. MSHA grants the petition for modification for the No. 5 Mine with conditions.

Docket No.: M–2001–005–C.
FR Notice: 66 FR 18658.
Petitioner: Taurus Coal Company, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the No. 8 Mine. MSHA grants the petition for modification for the No. 8 Mine with conditions.

Docket No.: M–2001–006–C.
FR Notice: 66 FR 18658.
Petitioner: Coalburg Enterprises, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the No. 1 Mine. MSHA grants the petition for modification for the No. 1 Mine with conditions.

Docket No.: M–2001–007–C.
FR Notice: 66 FR 18659.
Petitioner: Beech Fork Processing, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the No. 3 Mine. MSHA grants the petition for modification for the No. 3 Mine with conditions.

Docket No.: M–2001–008–C.
FR Notice: 66 FR 18659.
Petitioner: Beech Fork Processing, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the No. 2 Mine. MSHA grants the petition for modification for the No. 2 Mine with conditions.

Docket No.: M–2001–009–C.
FR Notice: 66 FR 18659.
Petitioner: Eagle Coal Company, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the No. 7 Mine. MSHA grants the petition for modification for the No. 7 Mine with conditions.

Docket No.: M–2001–013–C.
FR Notice: 66 FR 28932.
Petitioner: Big Ridge, Inc.
Regulation Affected: 30 CFR 75.503 18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the Willow Lake Portal Mine. MSHA grants the petition for modification for the Willow Lake Portal Mine with conditions.

Docket No.: M–2001–016–C.
FR Notice: 66 FR 28932.
Petitioner: Goodin Creek Contracting, Inc.
Regulation Affected: 30 CFR 75.342.
Summary of Findings: Petitioner's proposal is to use a hand-held continuous multi-gas detector, which detects oxygen, methane, and carbon monoxide, in lieu of a machine mounted methane monitor for the three wheel tractors (Mescher tractors). This is considered an acceptable alternative method for the Goodin Creek #2 Mine. MSHA grants the petition for modification for the Goodin Creek #2 Mine with conditions.

Docket No.: M–2001–028–C.
FR Notice: 66 FR 30232.
Petitioner: DLR Mining, Inc.
Regulation Affected: 30 CFR 75.1100–2(e)(2).
Summary of Findings: Petitioner's proposal is to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. This is considered an acceptable alternative method for the Nolo Mine. MSHA grants the petition for modification for the Nolo Mine with conditions.

Docket No.: M–2001–033–C.
FR Notice: 66 FR 30232.
Petitioner: American Energy Corporation.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use air coursed through belt haulage entries to ventilate active working places. This is considered an acceptable alternative method for the Century Mine. MSHA grants the petition for modification for the Century Mine with conditions.

Docket No.: M–2001–038–C.
FR Notice: 66 FR 30233.
Petitioner: Faith Coal Sales, Inc.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the White Star No. 1 Mine. MSHA grants the petition for modification for the White Star No. 1 Mine with conditions.

Docket No.: M–2001–042–C.
FR Notice: 66 FR 30234.
Petitioner: Branham & Baker Underground Corp.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).
Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics in lieu of a padlock with its fastening configuration to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the Mine No. 2B, Mine No. 10, Mine No. 15, and Mine No. 22. MSHA grants the petition for modification for the Mine No. 2B, Mine No. 10, Mine No. 15, and Mine No. 22 with conditions.

Docket No.: M–2000–008–C.
FR Notice: 65 FR 10563.
Petitioner: Island Creek Coal Company.
Regulation Affected: 30 CFR 75.1100–2(b).
Summary of Findings: Petitioner's proposal is to install a waterline in an entry adjacent to the conveyor belt entry on retreating longwalls equipped with fire hydrants spaced no more than 310 feet apart instead of the current operating procedures granted under a previous petition for modification (M–94–68–C) allowing for hydrants to be spaced no more than 270 feet apart in these entries. This is considered an acceptable alternative method for the VP–8 Mine. MSHA grants the petition for modification for the VP–8 Mine with conditions.

Docket No.: M–2000–015–C.
FR Notice: 65 FR 16966.
Petitioner: RAG Cumberland Resources, LP.
Regulation Affected: 30 CFR 75.503 (Schedule 2G, § 18.35).
Summary of Findings: Petitioner's proposal is to use a 1,000 foot trailing cable on full-face continuous miners and other face equipment during development mining. This is considered an acceptable alternative method for the Cumberland Mine. MSHA grants the petition for modification for the Cumberland Mine with conditions.

Docket No.: M–2000–018–C.
FR Notice: 65 FR 16966.
Petitioner: FKZ Coal, Inc.
Regulation Affected: 30 CFR 75.1200(d) and (i).
Summary of Findings: Petitioner's proposal is to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the

vein being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. This is considered an acceptable alternative method for the Mercury No. 1 Slope Mine. MSHA grants the petition for modification for the No. 1 Slope Mine with conditions.

Docket No.: M–2000–031–C.
FR Notice: 65 FR 31611.
Petitioner: Genwal Resources, Inc.
Regulation Affected: 30 CFR 75.500(b).
Summary of Findings: Petitioner's proposal is to use non-permissible low-voltage or battery powered electronic testing and diagnostic equipment such as lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices ultrasonic thickness gauges, electronic component testers, electronic tachometers and battery operated drills, in or inby the last open crosscut. This is considered an acceptable alternative method for the Crandall Canyon Mine. MSHA grants the petition for modification for the Crandall Canyon Mine with conditions.

Docket No.: M–2000–033–C.
FR Notice: 65 FR 31612.
Petitioner: Sidney Coal Company, Inc.
Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use 4,160-volt longwall face equipment, and submit proposed revisions for its approved Part 48 training plans to the District Manager that would specify initial and refresher training. This is considered an acceptable alternative method for the Rockhouse Energy Mining Company Mine No. 1. MSHA grants the petition for modification for the Rockhouse Energy Mining Company, Mine No. 1 with conditions.

Docket No.: M–2000–043–C.
FR Notice: 65 FR 31610.
Petitioner: Elk Run Coal Company, Inc.
Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to use continuous mining machines with nominal voltage of the power circuits not to exceed 2,300 volts in its March 29, 2000, petition for modification. The petitioner amended its petition for modification in May 2000 and requested the stipulations to be changed to use 2,400-volt high-voltage continuous mining machines. This is considered an acceptable alternative method for the Castle Mine. MSHA grants the petition for modification for the 2,400-volt continuous miner(s) used at the Castle Mine with conditions.

Docket No.: M–2000–045–C.
FR Notice: 65 FR 31611.
Petitioner: Roberts Bros. Coal Company.
Regulation Affected: 30 CFR 75.701.
Summary of Findings: Petitioner's proposal is to use a 200KW, 480-volt, diesel powered generator set with an approved diesel drive engine to move equipment in and out of the mine and to perform rehabilitation work in areas outby section loading points. This is considered an acceptable alternative method for the Cardinal #2 Mine. MSHA grants the petition for modification for the Cardinal #2 Mine with conditions.

Docket No.: M–2000–047–C.
FR Notice: 65 FR 40141.
Petitioner: Bowie Resources, Ltd.
Regulation Affected: 30 CFR 75.701.
Summary of Findings: Petitioner's proposal is to use a 460KW, 480-volt, wye connected diesel powered generator for utility power and to move electrically powered mining equipment throughout the mine. This is considered an acceptable alternative method for the Bowie Mine. MSHA grants the petition for modification for the Bowie Mine with conditions.

Docket No.: M–2000–055–C.
FR Notice: 65 FR 40142.
Petitioner: RAG Cumberland Resources LP.
Regulation Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal is to request that Item 29 of its previously granted petition for modification (M–92–99-C), be amended to allow the widths and lengths of its panels to be increased; and that Item 31 be amended to allow a primary escapeway maintained in accordance with 30 CFR 75.380 be provided on the headgate end of all longwall panels. This is considered an acceptable alternative method for the Cumberland Mine. MSHA grants the petition for modification for the Cumberland Mine with conditions.

Docket No.: M–2000–088–C.
FR Notice: 65 FR 49017.
Petitioner: Elk Run Coal Company, Inc.
Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and mine through oil and gas wells. This is considered an acceptable alternative method for the White Knight Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to § 75.1700) plugged oil or gas wells penetrating the Powellton Coal Seam and other mineable coal seams using continuous mining methods for the White Knight Mine with conditions.

Docket No.: M–2000–089–C.
FR Notice: 65 FR 49017.
Petitioner: Elk Run Coal Company, Inc.
Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and mine through oil and gas wells. This is considered an acceptable alternative method for the Castle Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to § 75.1700) plugged oil or gas wells penetrating the Powellton Coal Seam and other mineable coal seams using continuous mining methods for the Castle Mine with conditions.

Docket No.: M–2000–090–C.
FR Notice: 65 FR 49018.
Petitioner: Elk Run Coal Company, Inc.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use air that is coursed through belt haulage entries to ventilate active working places and install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries at certain locations. This is considered an acceptable alternative method for the Castle Mine. MSHA grants the petition for modification for the Castle Mine with conditions.

Docket No.: M–2000–091–C.
FR Notice: 65 FR 49018.
Petitioner: Freeman United Coal Mining Company.
Regulation Affected: 30 CFR 75.1909(b)(6).
Summary of Findings: Petitioner's proposal is to use a diesel-grader without front wheel brakes, limit the diesel-grader speed to a maximum speed of 10 miles per hour, lower the grader blade (mold board) to increase stopping capability in emergencies, and provide training for the grader operators on how to recognize appropriate levels of speed for different road and slope conditions. This is considered an acceptable alternative method for the Crown III Mine. MSHA grants the petition for modification for the Crown III Mine with conditions.

Docket No.: M–2000–094–C.
FR Notice: 65 FR 49018.
Petitioner: Elk Run Coal Company, Inc.
Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is to use high-voltage (4,160-volts) longwall mining equipment at the face. This is considered an acceptable alternative method for the Castle Mine. MSHA grants the petition for modification for the Castle Mine with conditions.

Docket No.: M–2000–095–C.
FR Notice: 65 FR 58818.
Petitioner: Blue Mountain Energy, Inc.
Regulation Affected: 30 CFR 75.1902(c)(2)(i), (ii), (iii).
Summary of Findings: Petitioner's proposal is to store the temporary diesel transportation unit (the unit) no more than 5 cross-cuts from the loading point, or projected loading point during installation, and the last loading point during equipment removal. This is considered an acceptable alternative method for the Deserado Mine. MSHA grants the petition for modification for the Deserado Mine with conditions. The petitioner filed a petition on June 8, 2000, seeking modification of 30 CFR 75.1902(2)(i), (ii), and (iii). On October 30, 2000, the petitioner filed an amended petition to more accurately reflect the current standard 30 CFR 75.1902(c)(2)(i), (ii) and (iii).

Docket No.: M–2000–098–C.
FR Notice: 65 FR 58818.
Petitioner: Black Beauty Coal Company.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use intake air off the belt and neutral entries to ventilate working sections. This considered an acceptable alternative method for the Air Quality #1 Mine. MSHA grants the petition for modification to allow air coursed through conveyor belt entries to be used to ventilate working places for the Air Quality #1 Mine with conditions.

Docket No.: M–2000–099–C.
FR Notice: 65 FR 58818.
Petitioner: San Juan Coal Company.
Regulation Affected: 30 CFR 75.500(d).
Summary of Findings: Petitioner's proposal is to use non-permissible low-voltage or battery powered electronic testing and diagnostic equipment such as lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices ultrasonic thickness gauges, electronic component testers, electronic tachometers and battery operated drills, in or inby the last open crosscut. This is considered an acceptable alternative method for the San Juan South Mine and the San Juan Deep Mine. MSHA grants the petition for modification for the San Juan South Mine and the San Juan Deep Mine with conditions.

Docket No.: M–2000–100–C.
FR Notice: 65 FR 58818.
Petitioner: Black Beauty Coal Company.
Regulation Affected: 30 CFR 75.350.
Summary of Findings: Petitioner's proposal is to use intake air off the belt and neutral entries to ventilate working sections. This considered an acceptable alternative method for the Vermilion Grove Mine. MSHA grants the petition for modification to allow air coursed through conveyor belt entries to be used to ventilate working places for the Vermilion Grove Mine with conditions.

Docket No.: M–2000–101–C.
FR Notice: 65 FR 58818.
Petitioner: Genwal Resources, Inc.
Regulation Affected: 30 CFR 75.701.
Summary of Findings: Petitioner's proposal is to use a 480-volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. This is considered an acceptable alternative method for the Crandall Canyon Mine. MSHA grants the petition for the modification 480-volt, three-phase, 320KW diesel powered generator (DPG) set, Serial No. 31545, used to supply power to a 400 KVA autotransformer and the three-phase 480- and 995-volt power circuits for the Crandall Canyon Mine with conditions.

Docket No.: M–2000–102–C.
FR Notice: 65 FR 58819.
Petitioner: Genwal Resources, Inc.
Regulation Affected: 30 CFR 75.901.
Summary of Findings: Petitioner's proposal is to use a 480-volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. This is considered an acceptable alternative method for the Crandall Canyon Mine. MSHA grants the petition for the modification 480-volt, three-phase, 320KW diesel powered generator (DPG) set, Serial No. 31545, used to supply power to a 400 KVA auto-transformer and the three-phase 480- and 995-volt power circuits for the Crandall Canyon Mine with conditions.

Docket No.: M–2000–103–C.
FR Notice: 65 FR 58819.
Petitioner: West Ridge Resources, Inc.
Regulation Affected: 30 CFR 75.701.
Summary of Findings: Petitioner's proposal is to use a 480-volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. This is considered an acceptable alternative method for the West Ridge Mine. MSHA grants the petition for the modification 480-volt, three-phase, 320KW diesel powered generator (DPG) set, Serial No. 31545, used to supply power to a 400 KVA auto-transformer and the three-phase 480- and 995-volt power circuits for the West Ridge Mine with conditions.

Docket No.: M–2000–105–C.
FR Notice: 65 FR 58819.
Petitioner: Gibson County Coal, LLC.
Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and mine through oil and gas wells using specific procedures listed in the petition for modification. This is considered an acceptable alternative method for the Gibson Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to § 75.1700) plugged oil or gas wells penetrating the Kentucky No. 9 (Illinois No. 5) seam and other mineable coal seams for the Gibson Mine with conditions.

Docket No.: M–2000–106–C.
FR Notice: 65 FR 58819.
Petitioner: San Juan Coal Company.
Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and through oil and gas wells within a 300 foot diameter of abandoned oil and gas wells using the specific procedures outlined in its petition for modification. This is considered an acceptable alternative method for the San Juan South Mine and the San Juan Deep Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to § 75.1700) plugged oil or gas wells penetrating the Fruitland No. 8 Coal Seam and other mineable coal seams for the San Juan South Mine and the San Juan Deep Mine with conditions.

Docket No.: M–2000–107–C.
FR Notice: 65 FR 58819.
Petitioner: Sidney Coal Company, Inc.
Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and through oil and gas wells within a 300 foot diameter of abandoned oil and gas wells using the specific procedures outlined in its petition for modification. This is considered an acceptable alternative method for the Rockhouse Energy Mining Company Mine No. 1. MSHA grants the petition for modification for mining through or near (whenever the

safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to § 75.1700) plugged oil or gas wells penetrating the Cedar Grove Coal Seam and other mineable coal seams using continuous miners, conventional mining or longwall mining methods. This is considered an acceptable alternative method for the Rockhouse Energy Mining Company Mine No. 1. MSHA grants the petition for modification for the Rockhouse Energy Mining Company Mine No. 1 with conditions.

Docket No.: M–2000–108–C.
FR Notice: 65 FR 58819.
Petitioner: San Juan Coal Company.
Regulation Affected: 30 CFR 75.1002–1(a).

Summary of Findings: Petitioner's proposal is to use permissible low-voltage or battery powered electronic testing and diagnostic equipment such as lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices insulation testers (meggers), voltage, current, and power measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, electronic tachometers and may use other testing and diagnostic equipment if approved by the District Manager. This is considered an acceptable alternative method for the San Juan South Mine and San Juan Deep Mine. MSHA grants the petition for modification for the use of low-voltage or battery-powered non-permissible electronic testing and diagnostic equipment within 150 feet of pillar workings for the San Juan South Mine and San Juan Deep Mine with conditions.

Docket No.: M–2000–117–C.
FR Notice: 65 FR 58820.
Petitioner: Genwal Resources, Inc.
Regulation Affected: 30 CFR 75.1002–1(a).

Summary of Findings: Petitioner's proposal is to use nonpermissible low-voltage or battery powered electronic testing and diagnostic equipment such as lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressures and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, electronic techometers, inby the last open crosscut, and may use other equipment approved by the District Manager. This is considered an acceptable alternative method for the Crandall Canyon Mine. MSHA grants the petition for modification for the use of low-voltage or battery-powered nonpermissible equipment with 150 feet of pillar, under controlled conditions at the Crandall Canyon Mine with conditions.

Docket No.: M–2000–124–C.
FR Notice: 65 FR 64261.
Petitioner: Parkwood Resources, Inc.
Regulation Affected: 30 CFR 75.100–2(e)(2).

Summary of Findings: Petitioner's proposal is to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. This is considered an acceptable alternative method for the Parkwood Mine. MSHA grants the petition for modification for the temporary electrical installations provided the petitioner maintains two portable fire extinguishers having at least the minimum capacity specified for portable fire extinguisher in 30 CFR 75.1100–1(e) at each of the temporary electrical installations at the Parkwood Mine with conditions.

Docket No.: M–2000–129–C.
FR Notice: 65 FR 64261.
Petitioner: Girdner Mining Company, Inc.
Regulation Affected: 30 CFR 75.342.

Summary of Findings: Petitioner's proposal is to use hand-held continuous-duty methane and oxygen indicators on three-wheel tractors with drag bottom buckets used to load and haul coal from the mine face, but approximately 20 percent of the time they are also used to haul supplies and as a mantrip vehicle. This is considered an acceptable alternative method for the Mine #1. MSHA grants the petition for modification for the Mescher permissible three-wheel battery-powered tractors used to load coal at the Mine #1 with conditions.

Docket No.: M–2000–138–C.
FR Notice: 65 FR 75973.
Petitioner: Black Beauty Coal Company.
Regulation Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal is to use high-voltage (2,400-volt) trailing cables inby the last open crosscut at the working continuous miner section(s) g equipment. This is considered an acceptable alternative method for the Riola #1 Mine. MSHA grants the petition for modification for the 2,400-volt continuous miner(s) at the Riola #1 Mine with conditions.

Docket No.: M–2000–142–C.
FR Notice: 65 FR 64261.
Petitioner: D & A Resources, Inc.
Regulation Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's requests is for the Proposed Decision and Order for its previously granted petition for modification, docket number M–96–096–C, be amended to allow the terms and conditions to be used at locations other than the No. 3 bleeder shaft at the Emerald Mine. This is considered an acceptable alternative method for the Emerald Mine #1. MSHA grants the petition for modification for the submersible pumps installed in the No. 3 and No. 4 bleeder shafts and No. 6 return shafts and all future return and/or bleeder shafts in the Emerald Mine No. 1 with conditions.

Docket No.: M–2000–144–C.
FR Notice: 65 FR 75974.
Petitioner: McCoy Elkhorn Coal Corp.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).

Summary of Findings: Petitioner's proposal is to use a permanently installed spring-loaded locking device on mobile battery-powered machines in lieu of padlocks to prevent the battery plugs from accidentally separating from their receptacles, and to eliminate the hazards associated with difficult removal of padlocks during emergency situations. This is considered an acceptable alternative method for the Mine No. 14, Mine No. 16, Mine No. 21, and Smithfork Mine No. 1. MSHA grants the petition for modification for the Mine No. 14, Mine No. 16, Mine No. 21, and Smithfork Mine No. 1 with conditions.

Docket No.: M–2000–145–C.
FR Notice: 65 FR 75974.
Petitioner: Ohio County Coal Corporation.
Regulation Affected: 30 CFR 75.503 (18.41(f) of part 18).

Summary of Findings: Petitioner's proposal is to use a spring-loaded device with specific fastening characteristics instead of a padlock to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment the batteries serve, to prevent battery plugs from accidentally separating from their receptacles during normal operation of the battery equipment. This is considered an acceptable alternative method for the Freedom Mine. MSHA grants the petition for modification for the Freedom Mine with conditions.

Docket No.: M–2000–147–C.
FR Notice: 65 FR 75975.
Petitioner: Gibson County Coal, LLC.
Regulation Affected: 30 CFR 75.701.

Summary of Findings: Petitioner's proposal is to use a 200 KW/250 KVA, 480-volt, diesel powered generator set to move equipment in and out of the mine(s) and to move equipment underground in emergency situations. This is considered an acceptable

alternative method for the 480-volt, three-phase, 200KW diesel powered generator (DPG)set, supplying power to a 250 KVA three-phase transformer and three-phase 480- and 995-volt power circuits at the Gibson Mine. MSHA grants the petition for modification for the Gibson Mine with conditions.

Docket No.: M–2000–150–C.
FR Notice: 65 FR 75975.
Petitioner: D & F Deep Mine Buck Drift.
Regulation Affected: 30 CFR 75.1100–2(a)(2).
Summary of Findings: Petitioner's proposal is to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. This is considered an acceptable alternative method for the Buck Drift Mine. MSHA grants the petition for modification for the Buck Drift Mine with conditions.

Docket No.: M–2000–153–C.
FR Notice: 65 FR 75975.
Petitioner: Shamrock Coal Company.
Regulation Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal is to plug and mine through a plugged oil and gas the well located adjacent to longwall gate entries and within a proposed longwall mining panel. This is considered an acceptable alternative method for the Shamrock #18 Series Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to § 75.1700) plugged oil or gas wells penetrating the hazard No. 4 Coal Seam and other mineable coal seams at the Shamrock #18 Series Mine with conditions.

[FR Doc. 01–26327 Filed 10–18–01; 8:45 am]
BILLING CODE 4510–43–P

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sunshine Act Meeting

AGENCY: U.S. National Commission on Libraries and Information Science.

ACTION: Notice of meeting.

SUMMARY: The U.S. National Commission on Libraries and Information Science is holding an open business meeting to discuss developments affecting the Commission budget and the appropriate activities for library and information services with regard to homeland security.

DATE AND TIME: NCLIS Business Meeting—October 26, 2001, 8:30 a.m. to 12 p.m.

ADDRESSES: Conference Room, NCLIS Office, 1110 Vermont Avenue, NW., Washington, DC 20005.

STATUS: Open meeting.

FOR FURTHER INFORMATION CONTACT: Rosalie Vlach, Director, Legislative and Public Affairs, U.S. National Commission on Libraries and Information Science, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail *rvlach@nclis.gov,* fax 202–606–9203 or telephone 202–606–9200.

SUPPLEMENTARY INFORMATION: The meeting is open to the public, subject to space availability. To make special arrangements for physically challenged persons, contact Rosalie Vlach, Director, Legislative and Public Affairs, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail *rvlach@nclis.gov,* fax 202–606–9203 or telephone 202–606–9200.

Dated: October 17, 2001.

Robert S. Willard,

NCLIS Executive Director.

[FR Doc. 01–26535 Filed 10–17–01; 12:23 pm]
BILLING CODE 7527–$$–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences (BIO); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Biological Sciences (1110).
Date and Time: November 8, 2001; 8:30 am.–5 p.m. November 9, 2001; 8:30 a.m.–3 p.m.
Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA, Room 1235.
Type of Meeting: Open.
Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Tel No.: (703) 292–8400.
Minutes: May be obtained from the contact person listed above.
Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.
Agenda: GPRA Evaluation and Planning Discussion.

Dated: October 1 6, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–26439 Filed 10–18–01; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended) the National Science Foundation announces the following meeting.

Name: Advisory Committee for Education and Human Resources
Date and Time: November 7; 8:30 am–6:30 pm. November 8; 8:30 am–3 pm.
Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Open.
Contact Person: John B. Hunt, Senior Liaison, ACEHR, Directorate for Education and Human Resources, National Science Foundation, 4201 Wilson Boulevard, Room 805, Arlington, VA 22230, 703–292–8602.
Summary Minutes: May be obtained from contact person listed above.
Purpose of Meeting: To provide advice and recommendations concerning NSF support for Education and Human Resources.
Agenda: Discussion of FY 2001 programs of the Directorate for Education and Human Resources and planning for future activities.

Dated: October 16, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–26438 Filed 10–18–01; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

NSB Public Service Award Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: NSB Public Service Award Committee) (5195).
Date/Time: Monday, November 5, 2001, 11 am–12:30 pm EST (teleconference meeting).
Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.
Type of Meeting: Closed.
Contact Person: Mrs. Susan E. Fannoney, Executive Secretary, Room 1220, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone: 703/292–8096.
Purpose of Meeting: To provide advice and recommendations in the selection of the NSB Public Service Award recipients.
Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: October 16, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–26432 Filed 10–18–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date/Time: Tuesday, November 27, 2001 8:30 am–2 pm

Place: Room 370, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Mrs. Susan E. Fannoney, Program Manager, Room 1220, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703/292–8096.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: October 16, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–26433 Filed 10–18–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–186]

University of Missouri—Columbia; University of Missouri—Columbia Research Reactor; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Amended Facility License No. R–103, issued to the University of Missouri-Columbia (the licensee), for operation of the University of Missouri-Columbia Research Reactor (MURR), located in Columbia, Missouri.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise Amended Facility License No. R–103 to change the license expiration date from November 21, 2001, to October 11, 2006, to recapture the construction time between the issuance date of Construction Permit No. CPRR–68 (November 21, 1961) and issuance of Facility Operating License No. R–103 (October 11, 1966) to allow a 40-year operating license term.

The proposed action is in accordance with the licensee's application for amendment dated December 27, 2000, as supplemented by letters dated April 12 and June 6, 2001.

The Need for the Proposed Action

The proposed action is needed to recapture the time spent under the construction permit to allow operation of the MURR reactor for a term of 40 years from the date of issuance of the facility license.

Environmental Impacts of the Proposed Action

The MURR is located on a 7.5-acre lot in University Research Park, about one mile (1.6 km) southwest of the University of Missouri main campus in Columbia, Missouri. MURR is a pressurized, reflected, light-water moderated and cooled heterogeneous design reactor. The reactor is fueled with high-enriched, aluminum-clad, plate type fuel. The reactor has a maximum steady-state power level of 10 Megawatts thermal [MW(t)] with the reactor core located in a pressure vessel. The reactor pressure vessel is located in a cylindrically shaped pool and is covered by about 23 feet (7 m) of water during operation for radiation shielding. The reactor pool is surrounded by a biological shield. The reactor is located within a containment building.

The construction permit for the facility (CPRR–68) was issued to the University of Missouri on November 21, 1961. On October 11, 1966, Facility Operating License No. R–103 was issued to the University with a maximum power level of 5 MW(t). On July 9, 1974, Amendment No. 2 to the license was issued increasing the maximum operating power level to 10 MW(t). The facility normally operates on a 24-hour-a-day schedule with a shutdown once a week for refueling and maintenance.

The NRC has completed its evaluation of the proposed action and concludes that the proposed amendment to change the expiration date of the facility license to recapture time between construction and operation to allow for a 40-year operating license term will not result in a significant increase in environmental impacts. The licensee has not requested any changes to the facility design or operating conditions as part of this amendment request. Data from the last ten years of operation was assessed to determine the radiological impact of the facility on the environment.

Environmental surveys are performed by measuring the exposure to 41 thermoluminescent dosimeters (TLDs) placed on and off site at various distances and directions from the facility. The results of this monitoring for all TLDs averaged by year from 1991 to 2000, and the TLD with maximum exposure (both do not include TLDs affected by shipping operations) is as follows:

Year	Average (mrem/yr)	Maximum (mrem/yr)
2000	−1.3	18.6
1999	13.5	43.5
1998	3.4	51.9
1997	9.2	34.8
1996	9.2	34.9
1995	14.6	44.2
1994	20.5	49.7
1993	18.1	28.2
1992	6.3	26.7
1991	4.4	27.3

The 2000 average is slightly negative due to the inadvertent exposure of a control TLD.

In addition, the licensee has calculated the dose to the individual member of the public likely to receive the highest dose from air emission of radioactive material to the environment to demonstrate compliance with 10 CFR 20.1101(d). This regulation provides as low as is reasonably achievable criteria for air emissions which must result in an individual member of the public receiving a total effective dose equivalent (TEDE) of less than 10 mrem per year. The results of calculations for the years 1991–2000, is as follows:

Year	Dose (mrem/yr)
2000	0.8
1999	0.9
1998	0.9
1997	0.7
1996	0.6
1995	0.7
1994	0.5
1993	0.6
1992	0.4
1991	0.4

These doses are within the constraint on air emissions of 10 mrem per year total effective dose equivalent in 10 CFR 20.1101(d).

The radioactive material released from the facility in airborne effluents is given as follows:

Year	Curies released (Argon-41)	Curies released (Total)
2000	975	982
1999	1130	1137
1998	1130	1134
1997	861	870
1996	728	739
1995	878	888
1994	370	385
1993	409	425
1992	470	475
1991	440	441

Airborne effluent releases from the facility consist primarily of argon-41. This is characteristic for research reactors. The releases from the facility met the average concentration requirements of the facility technical specifications. The increase in the amount of radioactive effluents reported released between 1994 and 1995 was the result of a change in the method used by the licensee to sample the effluent. Prior to 1995, the results were based on the analysis of a daily grab sample. From 1995, the activity released was based on calculations performed on data recorded from the gas channel of the exhaust stack radioactivity monitor which is in operation 24 hours a day. Analysis of continuous data provided better accuracy than the grab sample method that only measured the radioactive material concentration in the airborne effluent once per day at the time the sample was taken.

Liquid effluent releases to the sanitary sewer were as follows:

Year	Curies released (Hydrogen-3)	Curies Released (Total)
2000	0.1199	0.1420
1999	0.1670	0.1740
1998	0.5901	0.5980
1997	0.1460	0.1510
1996	0.1487	0.1560
1995	0.0818	0.0900
1994	0.1089	0.1270
1993	0.2574	0.3160
1992	0.1711	0.2150
1991	0.2094	0.2580

Liquid effluent releases from the facility to the sanitary sewer consisted primarily of hydrogen-3. The licensee releases liquid effluent only to the sanitary sewer. The NRC inspection program confirmed that monthly concentrations met regulatory requirements found in Appendix B Table 3 of 10 CFR Part 20 in accordance with 10 CFR 20.2003.

Shipments of radioactive waste offsite for disposal at approved sites were as follows:

Year	Volume (cubic feet)	Activity (mCi)
2000	1207.5	249
1999	565.0	281
1998	910.0	53
1997	420.0	404
1996	337.5	1409
1995	0.0	0
1994	460.0	1228
1993	392.0	60,105
1992	679.0	1924
1991	772.5	1146

The NRC inspection program confirmed that waste shipments met the requirements of the regulations in 10 CFR Part 20 for waste disposal. The licensee did not ship radioactive waste offsite in 1995.

Shipments to return spent reactor fuel to the Department of Energy (DOE) were as follows:

Year	Shipments
2000	1
1999	2
1998	6
1997	4
1996	2
1995	4
1994	1
1993	3
1992	9
1991	0

Eight fuel elements are in each shipment. The fuel is returned to DOE facilities at the Savannah River Plant in Aiken, South Carolina. The NRC inspection program confirmed that fuel shipments met NRC and Department of Transportation requirements for the shipment of radioactive material.

Radiological releases from the facility and associated doses to the public are within regulatory limits or facility technical specifications and do not have a significant impact on human health or the environment. Monitoring of radiation levels in the environment includes soil, vegetative, and water sampling and direct radiation readings. Results of the monitoring program are reported in the Reactor Operations Annual Report and indicate that the facility does not have a significant impact on human health or the environment. Releases of radioactive material from the facility to the environment for the proposed construction permit recapture period are estimated to continue at levels similar to those above, which are well within regulatory limits.

Occupational doses to MURR staff and users meet the regulatory requirements found in 10 CFR part 20, subpart C, and are as low as is reasonably achievable. No changes in reactor operation that would lead to an increase in occupational dose are expected as a result of the proposed action.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any 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 non-radiological impacts, the proposed action does not have a potential to impact historic properties. The facility uses and disposes of small quantities of chemicals [e.g., up to about 5 gallons (20 liters) per year of hydrochloric acid, nitric acid, aqua regia and isopropyl alcohol] in research laboratories. These chemicals are disposed of in compliance with Environmental Protection Agency (EPA) and Missouri Department of Natural Resources requirements by the University of Missouri Environmental Health and Safety Department. These chemical forms and quantities are consistent with small laboratory use at universities.

The quality of the secondary cooling water is maintained using two commercial biocides, a corrosion inhibitor, and sulfuric acid (for pH control). These chemicals are similar to those used in cooling towers for the air conditioning systems of large buildings and enter the environment by evaporation from the tower to the air and by blowdown to the sanitary sewer. About 105 gallons (400 liters) of the two biocides, 700 gallons (2650 liters) of corrosion inhibitor, and 4000 gallons (15,150 liters) of sulfuric acid are used annually. The use of these chemicals is approved by EPA. These chemicals are stored in a manner that will contain the chemicals in the event of material storage container failure. The use and disposal of these chemicals will not have a significant impact on the environment. The proposed action will not result in significant increases in the use of these chemicals.

The facility uses approximately 38 million gallons of water annually. The water is supplied by university owned and maintained deep wells which provide water to the campus. Most of

the water (28 million gallons) is used in the cooling tower with the majority of the water lost to the atmosphere as water vapor. Wastewater from the facility discharges to the City of Columbia sewer system and is treated at the Columbia Regional Wastewater Treatment Plant.

The Missouri Department of Conservation has determined that no Federal or State listed plants or animals are known to occur on the MURR site, but did identify two species in the vicinity of the project site. One species, the Topeka Shiner, is listed as endangered. MURR withdraws a minimal amount of groundwater for reactor operation, has no major refurbishment or construction activities planned, and will have no significant change in the types or amounts of effluents leaving the facility as a result of construction permit recapture. Therefore, the proposed action is not expected to affect aquatic and terrestrial biota. The staff concludes there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

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 proposed action would result in expiration of the current license in November 2001, and the commencement of decommissioning if an application for license renewal is not made. If the application is denied, it is expected that the licensee would apply for renewal of the license. With operation under the proposed action or with a renewed license or during the evaluation of a timely renewal application, the environmental impacts of the proposed action and the alternative are similar.

If the Commission denied the application for license renewal, facility operations would end and decommissioning would be required with no significant impact on the environment. The environmental impacts of the proposed action and this alternative action are similar. In addition, the benefits of education and research conducted by the facility would be lost.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Hazards Analysis Report prepared for initial licensing of the facility and the power upgrade to 10 MW(t).

Agencies and Persons Consulted

In accordance with its stated policy, on September 14, 2001, the staff consulted with the Missouri State official, Mr. Ron Kucera, Director of Intergovernmental Cooperation and Special Projects of the Missouri Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments. In addition, the NRC determined to exercise its discretion to circulate an Environmental Assessment and Finding of No Significant Impact to the public for a 30-day comment period in response to a request from the State of Missouri Department of Natural Resources. The Notice of ''Request for Public Comment, Environmental Assessment and Finding of No Significant Impact'' appeared in the **Federal Register** on August 1, 2001 (66 FR 39803). During the comment period, the staff received 12 comment letters. All of the comments have been reviewed by the NRC. The majority of the comments received related to the operation of the reactor and other issues not related to the EA or the license amendment request. In response to comments relevant to the EA, several changes were made to the text of the EA to clarify issues raised in the comments.

A ''Discussion of Comments Received on the Environmental Assessment for the University of Missouri-Columbia Construction Permit Recapture Amendment'' has been prepared by the NRC staff. This document contains the NRC staff's discussion and response to the public comments relative to the EA and copies of the comment letters. This document has accession number ML012850463. Members of the public may view the document by using ADAMS or contacting the Public Document Room staff as discussed below.

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 December 27, 2000, as supplemented by letter dated April 12 and June 6, 2001, and the NRC staff's ''Discussion of Comments Received on the Environmental Assessment for the University of Missouri-Columbia Construction Permit Recapture Amendment,'' which are available for public inspection, and can be copied for a fee, at the U.S. Nuclear Regulatory Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The NRC maintains an Agencywide 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*. Persons who do not have access to ADAMS or who have problems in accessing the documents located in ADAMS may contact the PDR reference staff at 1–800–397–4209, 301–415–4737 or by email at pdr@nrc.gov.

Dated at Rockville, Maryland, this 12th day of October 2001.

For the Nuclear Regulatory Commission.

Eugene V. Imbro,

Acting Chief, Operational Experience and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–26441 Filed 10–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corp; Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR–28, issued to Vermont Yankee Nuclear Power Corporation (VYNPC, the licensee), for operation of the Vermont Yankee Nuclear Power Station (Vermont Yankee) located in Windham County, Vermont. 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 amend the Facility Operating License (FOL) by deleting obsolete information, correcting errors, and make administrative changes to enhance the context and provide consistency.

The proposed action is in accordance with the licensee's application for amendment dated April 23, 2001.

The Need for the Proposed Action

When FOL DPR–28 was issued to the licensee and in subsequent amendments, the NRC staff deemed certain issues essential to safety and/or essential to meeting certain regulatory interests. These issues were imposed as license conditions in the FOL. Since the unit was licensed to operate in the 1970s, most of these license conditions have been fulfilled or changed. For the license conditions that have been fulfilled, the licensee proposed to have them deleted from the FOL. The license conditions that are incorrect or need to be updated are being changed.

The licensee also proposed to make changes to correct administrative errors such as words misspelled and deleted documents being referenced and to provide clarifying information such as identifying deleted license conditions with the applicable amendment number and date and providing consistent paragraph identification.

The fire protection license condition will also be changed to reflect an updated list of applicable NRC safety evaluation reports.

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 amendment is granted. No changes will be made to the design and licensing basis, and the applicable procedures at Vermont Yankee will remain the same. Other than the administrative changes, no other changes will be made to the FOL, including the Technical Specifications.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released 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

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for Vermont Yankee dated July 1972.

Agencies and Persons Consulted

On August 6, 2001, the staff consulted with the Vermont State official, William Sherman of the Department of Public Service, 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 April 23, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library Component on the NRC web site, *http://www.nrc.gov* (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, 301–415–4737 or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 12th day of October 2001.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–26443 Filed 10–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Nuclear Industry Consolidation and Deregulation Issues Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will conduct a workshop on issues related to nuclear power industry consolidation and deregulation. The workshop will consist of two sessions. Session 1, ''Nuclear Industry Consolidation Issues'', will be held from 8:30 a.m. to noon on Thursday, November 1, 2001. The document that forms the basis for discussion for this session is ''Preliminary Impact Assessment of Nuclear Industry Consolidation on NRC Oversight (66 FR 34293, June 27, 2001).'' The objectives of Session 1 are to discuss the staff's preliminary impact assessment and stakeholder comments on the assessments. Session 1 will be conducted in a ''round table'' format with discussions, as opposed to presentations, centered on selected focus areas related to nuclear industry consolidation. Suggested focus areas are Plant Operational Safety, Licensing, Inspection, Enforcement & Assessment, Decommissioning, Fuel Cycle Facilities, and Financial-Related Issues. Other issues of concern to the participants will also be discussed. A detailed agenda will be posted on the NRC website before the meeting. Selected staff and invited external stakeholders will be seated at the table to lead the discussions, but comments from all attendees will be entertained.

Session 2, ''Effects of Deregulation on Safety—Research Issues'', will be held from 1:00 p.m. to 5:30 p.m. on Thursday, November 1, and from 8:00 a.m. to 3:30 p.m. on Friday, November 2. The document that forms the basis for discussion for this session is ''Effects of Deregulation on Safety: Implications Drawn From the Aviation, Rail, and United Kingdom Nuclear Power Industries'', (NUREG/CR–6735). The primary objective of Session 2 is to recommend a research agenda for NRC to address any significant issues related to deregulation that could affect nuclear power plant safety. A detailed agenda will be posted on the NRC website before the meeting. Subject Matter Experts who have studied the effects of deregulation on safety in the aviation, rail and United Kingdom nuclear power industries, and invited external stakeholders, will be the primary discussants, however, members of the

public will be invited to participate in the discussions as time permits.

Both workshop sessions will be open to the public and all interested parties may attend. All persons attending will register at the meeting.

DATES: November 1–2, 2001.

ADDRESSES: Nuclear Regulatory Commission, Two White Flint North Building (TWFN), Auditorium, 11545 Rockville Pike, Rockville, Maryland.

SCHEDULE:

November 1, 8:30 a.m. to 12:00 p.m.. Session 1. Agenda items include: Plant Operational Safety, Licensing, Inspection, Enforcement & Assessment, Decommissioning, Fuel Cycle Facilities, and Financial-Related Issues.

November 1, 1:00 p.m. to 5:30 p.m. Session 2. Agenda items include: Identification, definition, and prioritization of potential research issues.

November 2, 8 a.m. to 3:30 p.m. Session 2. Agenda items include: Potential research methods and research agenda

FOR FURTHER INFORMATION: For Session 1 contact Herbert N. Berkow, Mail Stop O 8 H12, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20–555–0001; Telephone (301) 415–1485 and E-mail at hnb@NRC.GOV. For Session 2, contact Julius J. Persensky, Mail Stop T 10 F13A, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Telephone (301) 415–6759 and E-mail at jjp2@NRC.GOV.

SUPPLEMENTARY INFORMATION: The primary document for Session 1, ''Preliminary Impact Assessment of Nuclear Industry Consolidation on NRC Oversight (for comment)'', is available electronically by visiting NRC's Home Page (*http://www.nrc.gov/NRC/REACTOR/CONSOLIMPACT*).

The primary document for Session 2, ''Effects of Deregulation on Safety: Implications Drawn From the Aviation, Rail, and United Kingdom Nuclear Power Industries'', (NUREG/CR–6735), is available electronically by visiting NRC's Home Page (*http://www.nrc.gov/NRC/NUREGS/CR6735*). You may request a free single copy of NUREG/CR–6735 by writing to: Reproduction and Distribution Services Section, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or E-mail: *DISTRIBUTION@nrc.gov*, or Facsimile: (301) 415–2289.

The NRC is accessible to the Red Line White Flint Metro Station. Visitor parking near the NRC buildings is limited.

Dated at Rockville, Maryland, this 15th day of October, 2001.

For the Nuclear Regulatory Commission.

Thomas L. King,

Director, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

[FR Doc. 01–26442 Filed 10–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision of a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 3 of Regulatory Guide 1.149, ''Nuclear Power Plant Simulation Facilities for Use in Operator Training and License Examinations,'' describes methods acceptable to the NRC staff for complying with the NRC's regulations associated with approval or acceptance of a simulation facility for use in reactor operator and senior operator training and NRC license examinations.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or downloading at the NRC's Web site at *www.nrc.gov* under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by e-mail to *DISTRIBUTION@NRC.GOV*. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 12th day of October 2001.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 01–26440 Filed 10–18–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44937; File No. S7–24–89]

Joint Industry Plan; Solicitation of Comments and Order Approving Request To Extend Temporary Effectiveness of Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., the Pacific Exchange, Inc., and the American, Boston, Chicago, Philadelphia, and Cincinnati Stock Exchanges

October 15, 2001.

I. Introduction

On October 12, 2001, the Cincinnati Stock Exchange, Inc. (''CSE'') on behalf of itself and the National Association of Securities Dealers, Inc. (''NASD''), the American Stock Exchange LLC, the Boston Stock Exchange, Inc., (''BSE''), the Chicago Stock Exchange, Inc. (''CHX''), Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (hereinafter referred to as the ''Participants'') [1] submitted to the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposal to extend the operation of the Plan [2] for Nasdaq/

[1] The CSE was elected as chair of the Operating Committee for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Exchange-Listed Nasdaq/National Market System Securities and for Nasdaq/National Market System Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (''Plan'') by the Participants.

[2] *See* letter from Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, to Jonathan G. Katz, Secretary, SEC, dated October 10, 2001 (''October 2001 Extension Request''). The signatories to the Plan are the Participants for purposes of this release. On October 12, 2001, CSE also submitted an amendment to the October 2001 Extension Request to include Amex as a Participant. *See* letter from Jeff T. Brown, Vice President

Continued

National Market (''Nasdaq/NM'') securities traded on an exchange on an unlisted or listed basis.[3] The October 2001 Extension Request would extend the effectiveness of the Plan through November 19, 2001 and also would extend certain exemptive relief as described below. The October 2001 Extension Request does not seek permanent approval of the Plan because the Participants currently are negotiating certain amendments to the Plan for which they will seek approval in the future.[4]

II. Background

The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange pursuant to a grant of UTP.[5] The Commission originally approved the Plan on a pilot basis on June 26, 1990.[6] The parties did not begin trading until July 12, 1993; accordingly, the pilot period commenced on July 12, 1993. The Plan has since been in operation on an extended pilot basis.[7]

III. Description of the Plan

The Plan provides for the collection from Plan Participants, and the consolidation and dissemination to vendors, subscribers and others, of quotation and transaction information in ''eligible securities.'' [8] The Plan contains various provisions concerning its operation, including: Implementation of the Plan; Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information; Reporting Requirements (including hours of operation); Standards and Methods of Ensuring Promptness, Accuracy and Completeness of Transaction Reports; Terms and Conditions of Access; Description of Operation of Facility Contemplated by the Plan; Method of Frequency of Proposed Evaluation; Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan; Calculation of the Best Bid and Offer (''BBO''); Dispute Resolution; and Method of Determination and Imposition, and Amount of Fees and Charges.[9]

IV. Exemptive Relief

In conjunction with the Plan, on a temporary basis, the Commission granted an exemption to vendors from Rule 11Ac1–2 [10] under the Act regarding the calculation of the BBO.[11] In the October 2001 Extension Request, the Participants ask that the Commission grant an extension of the exemptive relief described above to vendors until the BBO calculation issue is fully resolved.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. The Commission continues to solicit comments regarding the BBO calculation, the trade-through rule and any issues presented by changes occurring in the market place. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposal that are filed with the Commission, and all written communications relating to the proposal 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. All submissions should refer to File No. S7–24–89 and should be submitted by November 9, 2001.

VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through November 19, 2001, is appropriate and in furtherance of Section 11A [12] of the Act.[13] The Commission had previously stated that a revised Plan must be filed with the Commission by July 19, 2001, or the

Regulation and General Counsel, CSE, to Jonathan G. Katz, Secretary, SEC, dated October 12, 2001.

[3] Section 12 of the Securities Exchange Act of 1934 (''Act'') generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges (''UTP'') under certain circumstances. For example, Section 12(f) of the Act, among other things, permits, exchanges to trade certain securities that are traded over-the-counter (''OTC/UTP''), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of the Section 12(f) requirement, *see* November 1995 Extension Order, *infra* note 7.

[4] In accordance with the Commission's statements in its order approving the establishment of the Nasdaq Order Display Facility and Order Collector Facility (''SuperMontage''), the Participants represent that they are revising the Plan. *See* Securities Exchange Act Release No. 43863 (January 19, 2001) 66 FR 8020 (January 26, 2001). As the first step, the Participants submitted the 12th amendment to the Plan (''12th Amendment'') on August 30, 2001, which was published for comment in the **Federal Register** on October 2, 2001. *See* Securities Exchange Act Release No. 44882 (September 20, 2001), 66 FR 50226. The revised revenue sharing section of the Plan was approved by the Commission on a temporary basis.

[5] *See* Section 12(f)(2) of the Act, 15 U.S.C. 78*l*(f)(2).

[6] *See* Securities Exchange Act Release No. 28146, 55 FR 27917 (July 6, 1990) (''1990 Plan Approval Order'')

[7] *See* Securities Exchange Act Release Nos. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995), 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); 36368 (October 13, 1995); 60 FR 54091 (October 19, 1995); 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995) (''November 1995 Extension Order''); 36589 (December 13, 1995), 60 FR 65696 (December 20, 1995); 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); 38794 (June 30, 1997) 62 FR 36586 (July 8, 1997); 39505 (December 31, 1997) 63 FR 1515 (January 9, 1998); 40151 (July 1, 1998) 63 FR 36979 (July 8, 1998); 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999) (''May 1999 Approval Order''); 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000); 43005 (June 30, 2000); 65 FR 42411 (July 10, 2000); 44099 (March 23, 2001), 66 FR 17457 (March 30, 2001); 44348 (May 24, 2001), 66 FR 29610 (May 31, 2001); 44552 (July 13, 2001), 66 FR 37712 (July 19, 2001); 44694 (August 14, 2001), 66 FR 43598 (August 20, 2001); and 44804 (September 17, 2001), 66 FR 48299 (September 19, 2001).

[8] Currently, the Plan defines ''eligible security'' as any Nasdaq/NM security as to which UTP have been granted to a national securities exchange pursuant to Section 12(f) of the Act or that is listed on a national securities exchange. On May 12, 1999, in response to a request from the CHX, the Commission expanded the number of eligible Nasdaq/NM securities that may be traded by the CHX pursuant to the Plan from 500 to 1000. *See* May 1999 Approval Order, *supra* note 7. On November 9, 2000, the Commission noticed and requested comment on a proposal by the PCX to expand the maximum number of securities eligible to trade to include all Nasdaq/NM securities. *See* Securities Exchange Act Release No. 43545, 65 FR 69581 (November 17, 2000). The Participants have proposed to amend the definition of ''eligible security'' to include Nasdaq SmallCap securities. *See* 12th Amendment, *supra* note 4.

[9] The full text of the Plan, as well as a ''Concept Paper'' describing the requirements of the Plan, are contained in the original filing, which is available for inspection and copying in the Commission's Public Reference Room. In addition, the Commission published the Plan in its entirety as proposed to be amended by 12th Amendment. *See* 12th Amendment, *supra* note. 4.

[10] 17 CFR 240.11Ac1–2.

[11] Rule 11Ac1–2 under the Act requires that the best bid or best offer be computed on a price/size/time algorithm in certain circumstances. Specifically, Rule 11Ac1–2 under the Act provides that ''in the event two or more reporting market centers make available identical bids or offers for a specified security, the best bid or offer * * * shall be computed by ranking all such identical bids or offers * * * first by size * * * then by time.'' The exemption permits vendors to display the BBO for Nasdaq securities subject to the Plan on a price/time/size basis.

[12] 15 U.S.C. 78k–1.

[13] In approving this extension, the Commission has considered the extension's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

Commission will amend the Plan directly.[14] The Participants submitted the 12th Amendment to the Plan to the Commission on August 30, 2001, which, among other things, includes a process for selecting an alternative securities information processor. Therefore, to enable the Commission to consider and to solicit comment on the 12th Amendment, the Commission believes that it is appropriate to extend the current Plan.

The Commission notes that the revised final Plan must provide for either (1) A fully viable alternative exclusive securities information processor (''SIP'') for all Nasdaq securities, or (2) a fully viable alternative non-exclusive SIP in the event that the Plan does not provide for an exclusive SIP. If the revised Plan provides for an exclusive consolidating SIP, a function currently performed by Nasdaq, the Commission believes that, to avoid conflicts of interest, there should be a presumption that a Plan Participant, and in particular Nasdaq, should not operate such exclusive consolidating SIP. The presumption may be overcome if: (1) The Plan processor is chosen on the basis of bona fide competitive bidding and the Participant submits the successful bid; and (2) any decision to award a contract to a Plan Participant, and any ensuring review or renewal of such contract, is made without that Plan Participant's direct or indirect voting participation. If a Plan Participant is chosen to operate such exclusive SIP, the Commission believes there should be a further presumption that the Participant-operated exclusive SIP shall operate completely separate from any order matching facility operated by that Participant and that any order matching facility operated by the Participant must interact with the plan-operated SIP on the same terms and conditions as any other market center trading Nasdaq-listed securities. Further, the Commission will expect the NASD to provide direct or indirect access to the alternative SIP, whether exclusive or non-exclusive, by any of its members that quality, and to disseminate transaction information and individually identified quotation information for these members through the SIP.

Furthermore, the revised final Plan should be open to all SROs, and the Plan should share governance of all matters subject to the Plan equitably among the SRO Participants. The Plan also should provide for sharing of market data revenues among SRO Participants. Finally, the Plan should provide a role for participation in decision making to non-SROs that have direct or indirect access to the alternative SIP provided by the NASD. The Commission expects the parties to continue to negotiate in good faith on the above matters[15] as well as any other issues that arise during Plan negotiations.

The Commission also finds that it is appropriate to extend the exemptive relief from Rule 11Ac1–16[16] under the Act until the earlier of November 19, 2001, or until such time as the calculation methodology of the BBO is based on a mutual agreement among the Participants approved by the Commission. The Commission believes that the temporary extension of the exemptive relief provided to vendors is consistent with the Act, the Rules thereunder, and specifically with the objectives set forth in Sections 12(f)[17] and 11A[18] of the Act and in Rules 11Aa3–1[19] and 11Aa3–2[20] thereunder.

VII. Conclusion

It Is Therefore Ordered, pursuant to Sections 12(f)[21] and 11A[22] of the Act and paragraph (c)(2) of Rule 11Aa3–2[23] thereunder, that the Participants' request to extend the effectiveness of the Plan, as amended, for Nasdaq/NM securities traded on an exchange on an unlisted or listed basis through November 19, 2001, and certain exemptive relief through November 19, 2001, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–26399 Filed 10–18–01; 8:45 am]

BILLING CODE 8010–01–M

[14] *See supra* note 4. The Commission notes that the SuperMontage order stated the Participants were directed to produce a revised plan by July 19, 2001. The Commission, however, provided for a 3-month extension of the July 19, 2001 deadline if requested by the Participants for good cause. The Commission recognizes that the Participants have been meeting to discuss the alternatives for a new plan and has submitted the 12th Amendment to the Plan.

[15] *See also* discussion in the SuperMontage order, *supra* note 4.

[16] 17 CFR 240.11Ac1–2.

[17] 15 U.S.C. 78*l*(f).

[18] 15 U.S.C. 78k–1.

[19] 17 CFR 240.11Aa3–1.

[20] 17 CFR 240.11Aa3–2.

[21] 15 U.S.C. 78*l*(f).

[22] 15 U.S.C. 78k–1.

[23] 17 CFR 240.11Aa3–2(c)(2).

[24] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [66 FR 52468, October 15, 2001].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, October 18, 2001 at 10 a.m.

CHANGE IN THE MEETING: Additional Item.

The following item has been added to the closed meeting scheduled for Thursday, October 18, 2001:

Report of an investigation.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: October 16, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–26526 Filed 10–17–01; 12:03 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 22, 2001:

A closed meeting will be held on Tuesday, October 23, 2001, at 9:30 a.m., and an open meeting will be held on Thursday, October 25, 2001, in Room 1C30, the William O. Douglas Room, at 2:30 p.m.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5

U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matters of the closed meeting scheduled for Tuesday, October 23, 2001, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Formal orders.

The subject matters of the open meeting scheduled for Thursday, October 25, 2001, will be:

1. The Commission will consider whether to adopt final amendments to its broker-dealer books and records rules, Rule 17a–3 and Rule 17a–4 under the Securities Exchange Act of 1934. The amendments to Rule 17a–3 would clarify and expand recordkeeping requirements with respect to purchase and sale documents, customer records, associated person records, customer complaints, and certain other matters. The amendments to Rule 17a–4 would expand the types of records that broker-dealers must maintain and require broker-dealers to maintain or promptly produce certain records at each office to which those records relate. These amendments are designed to assist securities regulators, particularly state securities regulators, when conducting sales practice examinations of broker-dealers. These amendments were originally proposed on October 22, 1996 (see Exchange Act Release No. 37850, 61 FR 55593 (Oct. 28, 1996)), and were reproposed on October 2, 1998 (see Exchange Act Release No. 40518, 63 FR 54404 (Oct. 9, 1998)).

For further information, please contact Michael Macchiaroli, Associate Director, Division of Market Regulation at (202) 942–0132, Thomas McGowan, Assistant Director, Division of Market Regulation at (202) 942–4886, or Bonnie Gauch, Attorney, Division of Market Regulation at (202) 942–0765.

2. The Commission will consider the Pacific Exchange's proposal, filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, to establish the Archipelago Exchange as its equities trading facility.

For further information, please contact John Polise at (202) 942–0068.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: October 17, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–26570 Filed 10–17–01; 3:57 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44929; File No. SR–Amex–2001–86]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Temporary Use of Personal Cellular Telephones

October 12, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on October 11, 2001, the American Stock Exchange LLC (''Exchange'' or ''Amex'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Amex asserts that the proposed rule change meets the criteria set forth in Rule 19b–4(f)(6) [3] under the Act, which renders the proposal effective upon receipt of the filing by the Commission.[4] 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

A proposed rule change adopting temporary Amex Rule 220T, which allowed Amex members to use personal cellular telephones on a temporary 10-business day basis, became effective on filing on October 1, 2001.[5] The Amex adopted temporary Amex Rule 220T as a result of damage to Amex-provided telephones sustained during the September 11, 2001, attacks on the World Trade Center. The Amex proposes to extend the effectiveness of temporary Amex Rule 220T through and including November 9, 2001, to permit members continue to use personal cellular telephones as long as their service on Amex-provided telephones continues to be limited as a result of damage sustained in the attacks on the World Trade Center. In addition, the Amex proposes to include in the text of temporary Amex Rule 220T procedures applicable to a floor broker who receives an incoming call on a cellular telephone or initiates an outgoing call on a cellular telephone.[6]

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, 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

Telecommunications facilities in the western half of downtown New York sustained serious damage as the result of the attacks on the World Trade Center on September 11, 2001. In light of the damage sustained during the September 11, 2001, attacks, the Amex filed a proposal with the Commission to adopt temporary Amex Rule 220T. The proposal to adopt temporary Amex Rule 220T became effective on filing on October 1, 2001.[7] Temporary Amex Rule 220T allowed Amex members to use personal cellular telephones on a temporary ten-business day basis, subject to the conditions in temporary Amex Rule 220T.

The Amex notes that its staff has worked diligently with the Amex's primary telecommunications service providers and member firms to restore the damaged telecommunications facilities to full operational status. The repairs, however, have not been completed. Accordingly, the Amex seeks to extend the effectiveness of temporary Amex Rule 220T through and including November 9, 2001, to permit Amex members (*i.e.,* specialists, registered traders, and floor brokers) to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The Amex has requested that the Commission waive the five-business day pre-filing notice requirement and the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 44890 (October 1, 2001), 66 FR 51482 (October 9, 2001) (notice of filing and immediate effectiveness of File No. SR–Amex–2001–82 (''October 1 Release'').

[6] These procedures were included in Amendment No. 2 to the proposal adopting temporary Amex Rule 220T on a temporary ten-business day basis and were discussed in the October 1 Release. *See* note 5, *supra.* The current proposal codifies the procedures applicable to floor brokers in the text of temporary Amex Rule 220T.

[7] *See* October 1 Release, *supra* note 5.

use personal cellular telephones in the event that their service on the Amex's telephone system continues to be limited. In addition, the Amex proposes to amend temporary Amex rule 220T to include in the text of temporary Amex Rule 220T procedures applicable to a floor broker who receives an incoming call on a cellular telephone or initiates an outgoing call on a cellular telephone.

Under temporary Amex Rule 220T, the use by members of personal cellular telephones is subject to the following conditions:

• A member must have (1) tested his or her Exchange-provided telephones and found significant limitations on service, and (2) furnished a written statement to the Exchange to that effect. Members that previously applied to use a personal cellular telephone will be required to reapply for the extension of the effectiveness of temporary Amex Rule 220T;

• A member may not use a personal cellular telephone once full service is restored to the member's or member organization's Exchange telephone systems;

• A member must maintain his or her cellular telephone records, including logs of calls placed, for a period of not less than one year. The Exchange reserves the right to inspect and/or examine such telephone records;

• If a floor broker receives an incoming call on a cellular telephone and the caller wishes to give the floor broker an order for a security traded at the post where the broker is standing, the broker must step out of the crowd prior to accepting the order. In contrast, if a broker receives an incoming call on a cellular telephone and the caller wishes to give the broker an order for a security traded at some other location on the floor, the broker does not have to leave the crowd where he or she is standing in order to receive the order. A floor broker also may initiate an outgoing call on a cellular telephone and (1) accept an order for a security traded at the post where the broker is standing without leaving the trading crowd, or (2) accept an order for a security traded at some other location on the floor; and

• Except as provided in temporary Amex Rule 220T, all other requirements applicable to the use of Exchange-provided telephones by members shall apply to the use by members of personal cellular telephones.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange also believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex has filed the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3) of the Act and Rule 19b–4(f)(6) thereunder. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Amex has asked the Commission to designate such shorter time period so that the proposed rule change may become operative immediately. In this regard, the Amex believes that it would be prudent to permit members to use personal cellular telephones as a temporary back up in the event that regular phone service is not fully restored. In addition, the Amex notes that the Commission previously has permitted floor brokers, lead market makers, specialists, and registered traders on the Pacific Exchange and the Philadelphia Stock Exchange to use personal cellular telephone to conduct business.[13] Moreover, the Amex notes that its proposal contemplates the use of personal cellular telephones on a temporary basis until the current telecommunications difficulties resulting from the September 11, 2001, attacks on the World Trade Center are resolved.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately to allow Amex members to continue to use personal cellular telephones through and including November 9, 2001, subject to the requirements of temporary Amex Rule 220T.[14] The Commission finds that permitting the proposal to become operative immediately is consistent with the protection of investors and the public interest because it will help the Amex to continue to operate effectively while the Exchange and its telecommunications service providers work to repair the damage to the Amex's telecommunications facilities resulting from the September 11, 2001, attacks on the World Trade Center.

The Commission notes that temporary Amex Rule 220T is effective only on a temporary basis through and including November 9, 2001. In addition, the

[8] The rules of the Exchange continue to prohibit individuals who are not properly qualified to take public orders for securities (*i.e.,* non-Series 7 member or member firm employees) from interacting with the public. Surveillance of such telephone usage will be accomplished through the record-maintenance requirements of temporary Amex Rule 220T, which requires members to maintain OSC cellular telephone records for at least one year and to give the Exchange the authority to inspect such records.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *See* Securities Exchange Act Release Nos. 43972 (February 15, 2001), 66 FR 12579 (February 27, 2001) (order approving File No. SR–PHLX–00–48); and 43836 (January 11, 2001), 66 FR 6727 (January 22, 2001) (order approving File No. SR–PCX–00–33).

[14] For purposes only of accelerating the operative date of the proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Commission notes that the relief provided under temporary Amex Rule 220T applies in limited circumstances. Specifically, the Commission notes that under temporary Amex Rule 220T a member may use a personal cellular telephone only if the member has provided the Amex with a written statement indicating that service on the member's Exchange-provided telephone is limited significantly. In addition, a member may not continue to use a personal cellular telephone after full service is restored to the member's Amex telephone systems. The Commission also notes that temporary Amex Rule 220T provides safeguards in connection with the use of personal cellular telephones. In this regard, temporary Amex Rule 220T requires a member to maintain records of his or her cellular telephone calls, including logs of calls placed, for a period of not less than one year. In addition, as described more fully above, temporary Amex Rule 220T specifies procedures applicable to a floor broker who receives an incoming call on a cellular telephone or initiates an outgoing call on a cellular telephone.

A proposed rule change filed under Rule 19b-4(f)(6) normally requires that the self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 196-4(f)(6)(iii) permits the Commission to waive the five-business day pre-filing notice requirement. The Amex has asked the Commission waive the pre-filing notice requirement. The Commission finds good cause to waive the five-business day pre-filing requirement because the Exchange's staff discussed with the Commission staff the need for an extension of temporary Amex Rule 220T prior to filing the proposed rule change. In addition, the Commission notes that the Amex submitted a draft of its proposal for review prior to filing the proposal.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–86 and should be submitted by November 9, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–26400 Filed 10–8–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Self Regulatory Organizations; Notice of Filing of a Proposaed Rule Change by the National Association of Securities Dealers, Inc., Relating to Nasdaq National Market Execution System Fees Charged to Non-Members

October 12, 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 9, 2001, the National Association of Securities Dealers, Inc. (''NASD'') through its subsidiary, The Nasdaq Stock Market, Inc. (''Nadaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. On October 11, 2001, Nasdaq filed Amendment No. 1 with the Commission.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the fees for use of the Nasdaq National Markett Execution System (''NNMS'' or ''SuperSOES'') charged to national securities exchanges trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges''), on a pilot basis.[4] The rule filing will become effective upon approval by the Commission and will be implemented the later of (i) December 1, 2001, or (ii) the first day of the month immediately following Commission approval. The rule filing will remain in effect, on a pilot basis, until November 30, 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. The text of the proposed rule change is set forth below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

7010. System Services

(a)(1) Nasdaq Level 1 Service

The charge to be paid by the subscriber for each terminal receiving Nasdaq Level 1 Service is $20 per month. This Service includes the following data:

(A) inside bid/ask quotations calculated for securities listed in The Nasdaq Stockk Market and securities quoted in the OTCC Bulletin Board (OTCBB) service;

(B) the individual quotations or indications of interest of broker/dealers utilizing the OTCBB service; and

(C) last sale information on securities classified as designated securities in the Rule 4630, 4640, and 4650 Series and securities classified as over-the-counter equity securities in the Rule 6600 Series.

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from John M. Yetter, Assistant General Counsel, Office of General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission (October 11, 2001) (''Amendment No. 1''). Amendment No. 1 is a technical amendment that amends the proposed rule language to clarify that the filing seeks to modify the fees for use of NNMSs by non-NASD members. Amendment No. 1 also notes that the rule filing, once effective, will be implemented the later of (i) December 1, 2001, or (ii) the first day of the month immediately following Commission approval, and will remain in effect, on a pilot basis, until November 30, 2002.

[4] Nasdaq also filed a companion rule filing (SR–NASD–2001–71) to apply these rule changes to NASD members. *See* Securities Exchange Act Release No. 44918 (October 10, 2001). SR–NASD–2001–71, proposes on a pilot basis, or: (1) Modify the fees for use of SuperSOES; (2) modify Nasdaq's liquidty provider rebate; (3) institute a quotation update charge; and (4) introduce a mechamism for sharing market data revenue with NASD members that report substantially all of their trades through the Automated Confirmation Transaction Service (''ACT''). SR–NASD–2001–71 is effective upon filing, and Nasdaq will implement it for a pilot period commencing on December 1, 2001 and ending on November 30, 2002.

(2) Market Data Revenue Sharing

For a pilot period commencing on December 1, 2001 and lasting until November 30, 2002, Full Contribution Members (as defined in Rule 7010(i)(2)) shall receive a market data revenue sharing credit. The total credit consist of two components, a ''Base Credit'' and a ''Supplemental Credit.'' [5]

(A) A Full Contribution Member's Base Credit shall be calculated in accordance with the following formula:

Base Credit = (0.50) × (Eligible Revenue) × (Member's Volume Percentage)

(B) A Full Contribution Member's Supplemental Credit shall be calculated in accordance with the following formula:

Supplemental Credit = (Eligible Revenue × (Member's Volume Percentage) × (Member's Overall Volume Percentage, not to exceed 10%)

(C) Definitions. The following definitions shall apply to this Rule:

(i) ''Eligible Revenue'' shall mean:

a. the portion of the net distributable revenues that Nasdaq, through the NASD, is eligible to receive under the Nasdaq UTP Plan, that is attributed to the Nasdaq Level 1 Service for Eligible Securities, minus

b. the portion of the fee charged to Nasdaq by NASD Regulation, Inc. for regulatory services allocated to the Nasdaq Level 1 Service for Eligible Securities.

(ii) ''Eligible Securities'' shall mean all Nasdaq National Market securities and any other security that meets the definition of ''Eligible Security'' in the Nasdaq UTP Plan.

(iii) ''Member's Volume Percentage'' shall mean the average of:

a. the percentage derived from dividing the total number of trades in Eligible Securities conducted on non-Nasdaq transaction systems that the member reports in accordance with NASD trade reporting rules to the Automated Confirmation Transaction Service (''ACT'') by the total number of trades in Eligible Securities reported to ACT by NASD members, and

b. the percentage derived from dividing the total number of shares represented by trades in Eligible Securities conducted on non-Nasdaq transaction systems taht the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members.

(iv) ''Member's Overall Volume Percentage'' shall mean the average of:

a. the percentage derived from dividing the total number of trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to ACT by the total number of trades in Eligible Securities reported to ACT by NASD members, and

b. the percentage derived from dividing the total number of shares represented by trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members.

(v) ''Nasdaq UTP Plan'' shall have the meaning set forth in NASD Rule 4720.

(b)–(h) No change.

(i) Transaction Execution Services.

(1) No change.

(2) Nasdaq National Market Execution System (SuperSOES).[6]

(A) 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 (cancelling party only)

(B)(i) For a pilot period commencing on December 1, 2001 and lasting until November 30, 2002, the per share charge will be determined as follows:

Full Contribution Members: $0.002 per share executed for all fully or partially executed orders (entering party only)

Partial Contribution Members: $0.003 per share executed for all fully or partially executed orders (entering party only)

Full Contribution UTP Exchanges: $0.003 per share executed for all fully or partially executed orders (entering party only)

(ii) Definitions. The following definitions shall apply to this Rule:

a. ''Full Contribution Member'' shall mean an NASD member that reports substantially all of its trades during regular market hours through the Automated Confirmation Transaction Service; provided, however, that for the first three months of the pilot period, all NASD members shall be deemed to be Full Contribution Members. Nasdaq may request that a member submit data demonstrating that it satisfies the definition of a Full Contribution Member, and may deem a member that fails to submit such data upon request to be a Partial Contribution Member.

b. ''Partial Contribution Member'' shall mean any NASD member that is not a Full Contribution Member.

c. ''Full Contribution UTP Exchange'' shall mean any national securities exchange trading Nasdaq securities pursuant the Nasdaq UTP Plan (as defined in NASD Rule 4720) that chooses to participate in the automatic execution functionality of the Nasdaq National Market Execution System.

(3) No change.

(4) Liquidity provider rebate.

For a pilot commencing on December 1, 2001 and lasting until November 30, 2002:

(A) Full Contribution Members that do not charge an access fee to market participants accessing their quotations through the Nasdaq National Market Execution System will receive a rebate of $0.001 per share when their quotation is executed against by a Nasdaq National Market Execution System order.

(B) Partial Contribution Members that do not charge an access fee to market participants accessing their quotations through the Nasdaq National Market Execution System will receive a rebate of $0.0005 per share when their quotation is executed against by a Nasdaq National Market Execution System order.

(C) Full Contribution Members and Partial Contribution Members will receive a rebate of $0.001 per share when they send a Nasdaq National Market Execution System order that executes against the quotation of a market participant that charges an access fee to market participants accessing its quotations through the Nasdaq National Market Execution System.

(5) Quotation Updates.

For a pilot period commencing on December 1, 2001 and lasting until November 30, 2002, the following charges shall apply to NASD members for quotation updates at the Nasdaq quotation montage:

Full Contribution Members: $0.01 per quotation update

Partial Contribution Members: $0.03 per quotation update

(j)–(q) No change.

[5] Nasdaq corrected a typographical error that appeared in the proposed rule language. Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq and Susie Cho, Special Counsel, Division, Commission, October 10, 2001.

[6] Nasdaq corrected a typographical error that appeared in the proposed rule language. Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq and Susie Cho, Special Counsel, Division, Commission, October 10, 2001.

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.[7] 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'' orders to market participants that do not participate in the automatic execution functionality of the NNMS. On September 28, 2001, Nasdaq filed modification to the pricing structure for SelectNet and the NNMS.[8] These changes were designed as an interim modification to begin 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. On October 3, 2001, Nasdaq filed a rule change, on a pilot basis, to increase the per share charge for use of the NNMS, and introduced a liquidity provider rebate for NASD members.[9]

With this filing and SR–NASD–2001–71, Nasdaq is making additional modifications to the fees for use of the NNMS and the liquidity provide rebate to calibrate the level of fees and rebates to the contributions that each type of market participant makes to the support of the Nasdaq market. Nasdaq is also introducing a mechanism for sharing market data revenue with NASD members that report substantially all trades through ACT. Finally, Nasdaq is introducing a quotation update charge.

Nasdaq represents that the proposal is designed to enhance market efficiency and fairness by offering incentives to market participants that provide liquidity through the NNMS and support Nasdaq operations through trade reporting. The proposal imposes new charges on market participants that use the Nasdaq quotation mechanism to quote, but do not provide meaningful liquidity by exposing and executing orders in Nasdaq. The proposal seeks to reward those who provide meaningful quotes and expose orders for execution in Nasdaq, while building in economic incentives to discourage posting of inefficient quotations that impose burdens on system capacity. In particular, Nasdaq is concerned about the extent to which the quotes of market participants that are displayed in Nasdaq are accessed and/or reported through non-Nasdaq systems. Market participants may advertise their liquidity on Nasdaq, but contribute very little to supporting the quotation, execution, and regulatory infrastructure that underpins the Nasdaq market.

The proposal delineates three types of market participants. A ''Full Contribution Member'' is defined as an NASD member that reports substantially all of its trades during regular market hours through ACT (either directly or as a result of an execution through a Nasdaq transaction execution system). All other NASD members would be considered ''Partial Contribution Members'' under the proposal. For the first three months of the pilot period, all NASD members are deemed to be Full Contribution Members. Thereafter, Nasdaq may request that a member submit data demonstrating that it satisfies the definition of a Full Contribution Member, and may deem a member that fails to submit such data upon request to be a Partial Contribution Member. A ''Full Contribution UTP Exchange'' is defined as any UTP Exchange that chooses to participate in the automatic execution functionality of the NNMS.

Charges for order execution and quotation updates. Under the proposal, the per share charge for orders executed in the NNMS by Partial Contribution Members and Full Contribution UTP Exchanges will increase to $0.003 per share and will remain at $0.002 per share for Full Contribution Members. Nasdaq is also institution a quotation update fee that is applicable to NASD members (but not UTP Exchanges), in recognition of the fact that the ability to post quotes in the Nasdaq quotation montage provides market participants with the valuable opportunity to advertise the liquidity that they offer. Nasdaq believes that the absence of any charges for quotation updates has encouraged market participants to quote inefficiently, imposing unnecessary burdens on Nasdaq system capacity. Moreover, to the extent that quotations are accessed through non-Nasdaq systems, the firms that post the quotations are currently free riding on the quotation infrastructure provided by Nasdaq. Accordingly, Nasdaq will charge Full Contribution Members $0.01 each time their quotation is updated and Partial Contribution Members $0.03 each time their quotation is updated.[10]

Liquidity Provider Rebate. Effective on December 1, 2001, Nasdaq will modify the liquidity provider rebate instituted by SR–NASD–2001–67,[11] by setting the rebate for Partial Contribution Members that do not charge an access fee to market participants accessing their quotations through the NNMS at $0.0005 per share when their quotation is executed against via the NNMS. The rebate for Full Contribution Members that do not charge an access fee to market participants accessing their quotations through the NNMS will remain $0.001 per share when their quotation is executed against via the NNMS, and a rebate of $0.001 per share will remain for all members when they send an NNMS order that executes against the quotation of a market

[7] *See* Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 3987 (January 25, 2000) (SR–NASD–99–11).

[8] *See* Securities Exchange Act Release No. 44899 (October 2, 2001) (SR–NASD–2001–63) and Securities Exchange Act Release No. 44898 (October 2, 2001) (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.

[9] *See* Securities Exchange Act Release No. 44910 (October 5, 2001) (SR–NASD–2001–67) and Securities Exchange Act Release No. 44914 (October 9, 2001) (SR–NASD–2001–68). SR–NASD–2001–67 applied these pilot changes to NASD members, effective upon filing, for a pilot period from November 1, 2001 through October 31, 2002. SR–NASD–2001–68 will apply the increase in the per share charge to UTP Exchanges, and will be implemented on the first day of the month immediately following Commission approval.

[10] A quotation update charge will not be imposed on UTP Exchanges at this time, because the Nasdaq Unlisted Trading Privileges Plan (the ''Nasdaq UTP Plan'') does not currently authorize such a charge.

[11] *See supra* note 9.

participant that charges an access fee to market participants accessing its quotation through the NNMS.

Market Data Revenue Sharing. Nasdaq proposes to share a portion of market data revenue with Full Contribution Members, the members that do the most to generate such revenues. The proposal is similar to the transaction credit already in effect to share Consolidated Tape Association revenue with NASD members that trade exchange-listed stocks through Nasdaq's Intermarket Trading System [12] and similar revenue sharing programs established by UTP Exchanges.[13] A member's total credit will consist of two parts, a Base Credit and a Supplemental Credit.

A member's Base Credit will be 50% of the product of Eligible Revenue and the Member's Volume Percentage. Eligible Revenue is defined as (i) the portion of the net distributable revenues that Nasdaq, through the NASD, is eligible to receive under the Nasdaq UTP Plan, that is attributed to the Nasdaq Level 1 Service for NNM securities or other securities covered by the Nasdaq UTP Plan (''Eligible Securities''), minus (ii) the portion of the fee charged to Nasdaq by NASD Regulation, Inc. (''NASDR'') for regulatory services allocated to the Nasdaq Level 1 Service for Eligible Securities. The Member's Volume Percentage is defined as the average of (i) the percentage derived from dividing the total number of trades in Eligible Securities conducted on non-Nasdaq transaction systems that the member reports in accordance with NASD trade reporting rules to ACT by the total number of trades in Eligible Securities reported to ACT by NASD members, and (ii) the percentage derived from dividing the total number of shares represented by trades in Eligible Securities conducted on non-Nasdaq transaction systems that the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members. In other words, the Base Credit is 50% of the net Level 1 revenue attributable to the member's reports of non-Nasdaq transaction system trades in Eligible Securities, with the pool of sharable revenue being comprised of Level 1 revenues distributable to Nasdaq under the UTP Plan minus an allocated portion of the NASDR regulation fee, and the member's non-Nasdaq transaction system trade report activity being measured by total number of trades and share volume.

In addition, a member may receive a Supplemental Credit, equal to a percentage of the product of Eligible Revenue and the Member's Volume Percentage. The percentage will be the lesser of 10% or the Member's Overall Volume Percentage, which is defined as the average of (i) the percentage derived from dividing the total number of trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to ACT by the total number of trades in Eligible Securities reported to ACT by NASD members, and (ii) a percentage calculated by dividing the total number of shares represented by trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members. In other words, the Supplemental Credit of up to 10% is based upon all of the member's trade reports, as measured by the total number of trades and share volume.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,[14] 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,[15] which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As the Commission has noted in the context of another self-regulatory organization's fees, the Act ''prohibits 'unfair discrimination,' not 'discrimination' simpliciter * * *.'' [16] Nasdaq believes that the proposed fee structure distinguishes among market participants in order to reward those who do the most to finance market innovations such as SuperSOES and who contribute the most to the liquidity and efficient operation of Nasdaq's market, while imposing higher fees on market participants that receive the benefits of posting quotations on Nasdaq systems but pay relatively little to support the operation of those systems. Thus, the economic incentives embodied by the new fee structure are designed to promote behavior that benefits both the market structure that Nasdaq offers to investors and Nasdaq as a business. As another self-regulatory organization noted when it established a credit available only to certain of its market participants, ''measures * * * designed to promote and encourage certain behaviors and/or discourage others * * * [are] an appropriate, nondiscriminatory business strategy.'' [17]

Moreover, 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 and the market data revenue sharing credit, will be comparable to overall fees for the NNMS, SelectNet, and SOES under Nasdaq's recently implemented pricing changes. Such fees are, in turn, estimated to 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.

[12] *See* NASD Rule 7010(c)(2).

[13] *See, e.g.*, Securities Exchange Act Release No. 41238 (March 31, 1999), 64 FR 17204 (April 8, 1999) (SR–CSE–99–03); Securities Exchange Act Release No. 40591 (October 22, 1998), 63 FR 58078 (October 29, 1998) (SR–BSE–98–9); Securities Exchange Act Release No. 38237 (February 4, 1997), 62 FR 6592 (February 12, 1997) (SR–CHX–97–01).

[14] 15 U.S.C. 78*o*–3(b)(5).

[15] 15 U.S.C. 78*o*–3(b)(6).

[16] Securities Exchange Act Release No. 37250 (May 29, 1996), 61 FR 28629 (June 5, 1996) (SR–CBOE–96–23) (quoting *Timpinaro* v. *SEC*, 2 F.3d 453, 456 (D.C. Cir. 1993)).

[17] Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (SR–Phlx–2001–49).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–72 and should be submitted by November 9, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–26401 Filed 10–18–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region VIII: Wyoming Regulatory Fairness Board; Public Hearing

The Small Business Administration Region VIII Wyoming Regulatory Fairness Board and the SBA Office of the National Ombudsman, will hold a Public Hearing Monday, October 29, 2001 at 8:30 a.m. at the Best Western Dunmar Inn, 1601 Harrison Dr. (Highway 30 West), Evanston, Wyoming 82930, phone (307) 789–3770, to receive comments and testimony from small business owners and representatives of trade associations concerning regulatory enforcement or compliance actions taken by federal agencies.

Anyone wishing to make an oral presentation must contact Mr. Mahlon Sorensen, Regulatory Fairness Coordinator, in writing by letter or fax no later than October 22, 2001, in order to put on the agenda. Mahlon Sorensen, Regulatory Fairness Coordinator, Wyoming District Office, U.S. Small Business Administration, 100 East ''B'' Street, Suite 4001, Casper, Wyoming 82601, (307) 261–6503 phone (307) 261 6535 fax.

Steve Tupper,

Committee Management Office.

[FR Doc. 01–26330 Filed 10–18–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region V: Wisconsin District Advisory Council; Public Meeting

The Small Business Administration Region V Wisconsin District Advisory Council, located in the geographical area of Milwaukee, Wisconsin, will hold a public meeting at 12 noon central time on Wednesday, October 24, 2001, at the MMAC building, 756 North Milwaukee Street, 4th Floor, Milwaukee, Wisconsin 53202, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Yolanda Staples Lassiter, in writing by letter or fax no later than Monday, October 22, 2001, in order to be put on the agenda. The contact information is as follows: Yolanda Staples Lassiter, EDS, U.S. Small Business Administration, 310 West Wisconsin Ave, Suite 400, Milwaukee, Wisconsin 53202, telephone—(414) 297–1090 or (414) 297–3928 fax.

Steve Tupper,

Committee Management Officer.

[FR Doc. 01–26331 Filed 10–18–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3820]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Emergence of Jewish Artists in Nineteenth Century Europe''

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 *et seq.*), Delegation of Authority No. 234 of October 1, 1999 (64 FR 56014), and Delegation of Authority No. 236 of October 19, 1999 (64 FR 57920), as amended, I hereby determine that the objects to be included in the exhibit ''The Emergence of Jewish Artists in Nineteenth Century Europe,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the exhibit objects at The Jewish Museum, of New York, NY, from on or about November 18, 2001, to on or about March 17, 2002, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 11, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01–26398 Filed 10–18–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3799]

Advisory Panel to the United States Section of the North Pacific Anadromous Fish Commission; Notice of a Closed Meeting

The Advisory Panel to the United States Section of the North Pacific Anadromous Fish Commission will meet on October 29, 2001, at the Victoria Conference Center, 720 Douglas Street, Victoria, B.C. V8VV 3M7, Canada. This session will involve discussion of the Eighth Annual Meeting of the North Pacific Anadromous Fish Commission, to be held on October 28–November 2, 2001. The discussion will begin at 8 a.m. and is closed to the public.

The members of the Advisory Panel will examine various options for the U.S. position at the Ninth Annual Meeting. These considerations must necessarily involve review of sensitive matters, the disclosure of which would frustrate U.S. participation at the Annual Meeting. Accordingly, the determination has been made to close the 8:00 a.m. meeting pursuant to Section 10(d) of the Federal Advisory

[18] 17 CFR 200.30–3(a)(12).

Committee Act and 5 U.S.C. Section 552b(c)(9).

Requests for further information on the meeting should be directed to Ms. Sally Cochran, International Relations Officer, Office of Marine Conservation (OES/OMC), Room 5806, U.S. Department of State, Washington, DC 20520–7818. Ms. Cochran can be reached by telephone on (202) 647–1073 or by FAX (202) 736–7350.

Dated: October 5, 2001.

Mary Beth West,

Deputy Assistant Secretary for Oceans and Fisheries, Department of State.

[FR Doc. 01–26397 Filed 10–18–01; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–01–10380]

Hazardous Materials: Knowledge Required for Civil Penalty Enforcement Proceedings; Postponement of Public Meeting and Extension of Comment Period

AGENCY: Office of the Secretary, DOT.

ACTION: Postponement of public meeting and extension of comment period.

SUMMARY: Due to exigencies following the events of September 11, 2001, DOT is postponing a public meeting that had been scheduled for November 14, 2001 and extending the comment period to February 28, 2002. The purpose of the public meeting was to solicit comments for consideration by DOT in developing additional guidance as to when a reasonable person, offering, accepting, or transporting a hazardous material in commerce would be deemed to have knowledge of facts giving rise to a violation of the Federal Hazardous Materials law or the Hazardous Materials regulations.

DATES: Written comments must be received by February 28, 2002.

ADDRESSES: Submit comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh Street SW, Washington, DC 20590–0001. Comments should identify Docket Number OST–01–10380 and be submitted in two copies. You may also submit comments by e-mail by accessing the DOT Dockets Management System website at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: LCDR Thomas Sherman, Intermodal Hazardous Materials Program, Office of Intermodalism, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590. Telephone (202) 366–5846; E-Mail: *Tom.Sherman@ost.dot.gov.*

SUPPLEMENTARY INFORMATION: On August 15, 2001, at the request of industry, we published a notice announcing plans to host a public meeting to solicit comments for consideration by DOT in developing additional guidance as to when a reasonable person, offering, accepting, or transporting a hazardous material in commerce would be deemed to have knowledge of facts giving rise to a violation of the Federal Hazardous Materials law or the Hazardous Materials regulations, 66 FR 42909. Due to exigencies following the events of September 11, 2001, DOT has received a request from the Air Transport Association to postpone the meeting. DOT agrees and hereby postpones the meeting that had been scheduled for November 14, 2001. DOT intends to reschedule a public meeting on the same topic in 2002. We are also extending the comment period to February 28, 2002.

Issued in Washington, DC on October 15, 2001.

Jackie A. Goff,

Director, Intermodal Hazardous Materials Program, Office of Intermodalism.

[FR Doc. 01–26465 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Air Carrier and General Aviation Maintenance Issues—New Tasks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new tasks assigned to the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: The FAA has assigned two new tasks to the Aviation Rulemaking Advisory Committee. The tasks are related to aeronautical repair station regulations. The first task involves evaluating the current system of ratings and classes for aeronautical repair stations and, if appropriate, recommending a new system. The second task involves evaluating the current requirements for quality assurance programs for aeronautical repair stations and recommending whether the FAA should include such systems in the regulations. The Committee has elected to work these tasks itself rather than establish working groups to develop recommendations.

FOR FURTHER INFORMATION CONTACT: James J. Ballough, Manager, Continuous Airworthiness Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–3546.

SUPPLEMENTARY INFORMATION:

Background

The FAA established the Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator on the FAA's rulemaking activities with respect to aviation-related issues. The Committee addresses a wide range of aviation issues. The committee will address these tasks under Air Carrier and General Aviation Maintenance Issues.

On July 30, 2001, the FAA issued a final rule that revised part 145 of Title 14 of the Code of Federal Regulations (66 FR 41088). In Notice of Proposed Rulemaking No. 99–09 (64 FR 33142; June 21, 1999), the FAA proposed a new system of rating and classes and solicited comments on requirements for a quality assurance program for aeronautical repair stations. Commenters overwhelmingly objected to these proposals. The FAA is seeking advice and recommendations from the Committee before promulgating additional rulemaking on these topics.

Task 1—Repair Station Ratings System Recommendations

Task Summary

Recommend a system to rate aeronautical repair stations that mitigates problems associated with the existing system of ratings and accommodate the growth of the aviation industry.

Committee Activity

- Review the existing system of ratings and classes contained in the current part 145 and any other documents issued by the FAA pertaining to aeronautical repair stations.
- Review comments submitted to FAA in response to the public meetings held in 1989 and the system of ratings proposed in June 1999 in Notice No. 99–09.
- Review challenges reported by Aviation Safety Inspectors (ASIs) under the existing system of ratings.
- Identify the challenges that aeronautical repair stations encounter under the existing system of rating and classes, including those pertaining to:
- Current business practices that are not regulated that may require some form of control;

• Provisions in the current regulation that prevent repair stations from performing desired business practices; and
• Enforcement problems associated with the current regulations.
• Draft a Technical Report that—
• Presents a review of the existing system of ratings and classes;
• Identifies various options for rating systems;
• Identifies the advantages and disadvantages of each option;
• Provides economic information for each of the alternative rating systems; and
• Recommends a preferred system of ratings.

Task 2—Repair Station Quality Assurance Program Recommendations

Task Summary

Recommend a quality assurance program that reflects the industry requirements of aeronautical repair stations and accounts for the varying scope of repair station operations.

Committee Activity

• Review the discussion about quality assurance in the June 1999 Notice of Proposed Rulemaking (Notice No. 99–09).
• Review comments relating to quality assurance submitted to FAA in response to the public meetings held in 1989 and the quality assurance program requirements proposed in Notice No. 99–09.
• Review current industry practices relating to quality assurance issues to—
• Identify quality assurance systems currently used by some repair stations, and
• Analyze the elements of the systems used by the aviation industry.
• Develop a Technical Report that—
• Presents a review of regulatory requirements that comprise a quality assurance program;
• Identifies various options for regulating quality assurance programs;
• Identifies the advantages and disadvantages of each option;
• Provides information on the economic impacts of applying a quality assurance system to various segments of the repair station industry; and
• Recommends a preferred quality assurance program/system.

Delivery Date: The Committee must complete this task by February 28, 2002.

ARAC Acceptance of Task

The Committee has accepted these tasks and elected not to establish working groups to assist in analyzing these tasks because the tasks are time critical.

The new tasks and a plan for accomplishing these tasks will be discussed at the next meeting on Air Carrier and General Aviation Maintenance Issues. The Committee may be required to meet every 4 to 6 weeks to accomplish the tasks within the scheduled completion date. Meeting attendance is open to the interested public but space may be limited. The FAA will arrange teleconference capability for individuals wishing to participate in meetings if we receive notification within the time specified in each notice of meeting.

The Secretary of Transportation determined that the information and use of the ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Issued in Washington DC, on October 15, 2001.

James Ballough,

Assistant Executive Director, Air Carrier and General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–26460 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Guidance on Instructions for Continued Airworthiness (ICA)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on withdrawal of policy memoranda, clarification of regulatory intent, and implementation guidance.

SUMMARY: The FAA invites public comment on its intent to rescind two policy memoranda issued in 1982 and 1983 regarding ICA submittals, and to clarify that ICA are required for all design approvals applied for after January 28, 1981, per Title 14, Code of Federal Regulations (CFR), section 21.50(b). Lastly, a six-point implementation plan is included.

DATES: Comments must be received by November 19, 2001.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, FAA, Aircraft Certification Service, Aircraft Engineering Division, Delegation and Airworthiness Programs Branch, AIR–140, ARB Room 304, 6500 S. MacArthur Boulevard, Oklahoma City, Oklahoma 73169; telephone: (405) 954–7073; fax: (405) 954–4104; e-mail *ruth.harder@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested parties to comment on this notice. Comments should identify the subject, and be submitted to the address specified under **FOR FURTHER INFORMATION CONTACT.** The FAA will consider all comments received by the closing date before issuing final guidance.

Background

The FAA Aircraft Certification Service (AIR) has recently had several certification projects in which the applicability of the requirement to develop Instructions for Continuing Airworthiness (ICA) was a matter of contention. The FAA staff wanted clarity as to whether 14 CFR 21.50(b) requires ICA for supplemental type certificates (STCs) for products for which the the original type certificate (TC) was applied for before January 28, 1981. The language of 14 CFR 21.50(b) is clear, stating, in relevant part:

> The holder of a design approval, including either the type certificate or supplemental type certificate for an aircraft, aircraft engine, or propeller for which application was made after January 28, 1981, shall furnish at least one set of complete Instructions for Continued Airworthiness * * *

Both STCs and amended TCs (ATCs) are design approvals. Under 14 CFR 21.50(b), all STCs and ATCs for which application was filed after January 28, 1981, must provide ICA. This is regardless of the date of application for the original TC.

FAA's AIR predecessor, the Office of Airworthiness, issued memoranda dated August 3, 1982 and August 8, 1983. Both stated that:

> 14 CFR 21.50(b) applies only to type certification, supplemental type certification, and amended type certification projects, whose original certification basis includes a requirement for ICA as amended on September 11, 1980 (effective January 28, 1981).

The 1983 memorandum further states that a project to amend 14 CFR 21.50(b) was initiated to reflect this interpretation. An amendment was never issued. These memoranda have sometimes been relied on as a basis for not requiring ICA for some STC projects.

FAA Policy

FAA legal counsel has determined that these memoranda did not change the plain meaning of 14 CFR 21.50(b). The 1982 and 1983 memoranda are hereby rescinded. AIR's policy is to require adherence to 14 CFR 21.50(b) by submittal of ICA for all design approvals (TC, STC, and ATC) for which application is made after January 28, 1981.

In response to comments already received from Aircraft Certification Offices (ACOs) and Aircraft Evaluation Groups (AEGs), points one through six below provide interim guidance in applying this requirement. AIR–100 will work with ACOs and AEGs to provide follow-on guidance on development and submittal of ICA.

1. Effective immediately, each applicant for a TC, STC, or ATC must submit a complete set of ICA.

2. Design approvals for STCs and ATCs should not be issued until ACO and AEG personnel have accepted the ICA.

3. The FAA will not address certification projects previously approved without ICA at this time. We will not require development of ICA for those products unless ACO and AEG personnel determine that ICA are necessary to prevent or correct an unsafe condition.

4. The ICA for an STC or ATC need only address continued airworthiness with respect to the design change for which application is made, as well as parts or areas of the aircraft affected by the design change. We consider such ICA ''complete'' for the purposes of 14 CFR 21.50(b).

5. An applicant's submitted assessment of the need for ICA may satisfy the ''complete set of ICA.'' If the assessment shows that the certification project did not change any information, procedures, process, requirements, or limitations in the current ICA, or require new ICA, and the FAA concurs, no further ICA development is necessary.

a. A statement should be placed on the design approval indicating that additional ICA change is not required.

b. For an STC, that statement may be placed under the ''Limitations and Conditions'' section.

6. If previous ICA or maintenance documents do not exist, or were developed before January 28, 1981, the ICA submitted for a design change should follow the format and contents specified in the appropriate airworthiness standards (14 CFR parts 23–35) appendix to the extent possible. ACOs and AEGs should give consideration to any submittal of ICA containing the essential information to maintain the design change in an airworthy condition.

This guidance does not create any new requirements.

Issued in Washington, DC, on October 11, 2001.

Thomas E. McSweeny,

Associate Administrator for Regulation and Certification.

[FR Doc. 01–26461 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–8247; Notice 2]

Cooper Tire & Rubber Company; Grant of Application for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that approximately 8,824 motorcycle tires produced at the Melksham, England, tire manufacturing facility of Cooper-Avon Tyres Limited, do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New Pneumatic Tires for Vehicles Other than Passenger Cars,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Cooper has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on January 2, 2001, in the **Federal Register** (66 FR 131). NHTSA received no comments.

The purpose of FMVSS No. 119, according to S2, is ''to provide safe operational performance levels for tires used on motor vehicles other than passenger cars, and to place sufficient information on the tires to permit their proper selection and use.'' Paragraph S6.5(d) of FMVSS No. 119 requires that each tire be marked with the maximum load rating and corresponding inflation pressure, and provides the following example ''Max Load _____ lbs at _____ psi cold.''

Cooper's noncompliance relates to the mislabeling of approximately 8,824 tires. The tires are the MT90–16 71H, Load Range B, motorcycle tires sold to one original equipment manufacturer/customer under the brand names AVON MT90–16 Roadrunnner, AVON MT90–16 Gangster, and Avon MT90–16 Indian. These tires were produced with the incorrect maximum load rating on the serial side of the tire during the first through the twentieth production weeks of 2000. Approximately 8,124 of the tires involved have been accounted for in either Cooper's inventory or the inventory of original equipment manufacturer/customer, leaving an estimated 700 tires not accounted for in either inventory. The incorrect plate read ''MAX LOAD 345 KG AT 2.9 BAR COLD, 760 LBS AT 42 PSI COLD.'' The correct information should have been ''MAX LOAD 770 LBS AT 36 PSI COLD.''

According to Cooper, this mislabeling does not present a safety-related defect. The tires involved are designed to carry a heavier load (770 lbs.) than the incorrect labeling specified (760 lbs.). Consequently, any misapplication of the tire would be for the user to carry a lighter load than the load for which the tires are designed. The tires produced from this mold during the aforementioned production periods comply with all other requirements of 49 CFR 571.119.

Based on the agency's telephone discussions with the petitioner, Cooper management has extensively reviewed the processes, the causes of these noncompliances have been isolated, and changes in the processes have been instituted to prevent any future occurrences. The noncompliance is limited to the equipment addressed in this notice. In addition, Cooper stated that all of its motorcycle tires assembled after this noncompliance were constructed in compliance with FMVSS No. 119 requirements.

The agency has reviewed Cooper's petition and believes this labeling noncompliance is inconsequential as it relates to motor vehicle safety. The primary safety purpose of this label is to ensure that the owners can select a tire appropriate for their motorcycle. In this case, Cooper understated the load carrying capability of the tire by labeling the maximum load on the tire as 760 pounds instead of 770 pounds. Cooper, in effect, produced a better tire than the label would indicate to the purchaser. Regarding the mis-marked inflation pressure, Cooper stated, in a telephone conversation, that the pressure was initially to be labeled on the tire as 36 psi, even though the tire was designed to accommodate a much higher inflation pressure. [Note: Per the Tire and Rim Association's 2000 Yearbook, page 7–09: A motorcycle tire of size MT–90–16, Load Range B, is 783 pounds at 36 psi. In addition, footnote no. 2 on that page states ''For special operating conditions, inflation pressure may be increased up to 40 psi maximum with no increase in load]. During the agency's technical discussions with Cooper, the tire manufacturer stated that the tires were designed to accommodate a higher inflation pressure than the mis-marked maximum inflation pressure of 42 psi. Cooper verified with the motorcycle manufacturer using the subject tire as a rear tire that when the tire is inflated to 40 psi, it could safely carry the maximum load. Cooper conducted a safety verification of these various inflation pressures with indoor test

wheels and production motorcycles on a closed track.

The agency agrees with Cooper's rationale that a motorcycle equipped with the mis-labeled tires and loaded per the incorrect maximum load rating would not cause an unsafe condition, because the motorcycle would carry a lighter load than the load for which the tires are designed and be inflated to a pressure level below the tire's designed maximum inflation pressure.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety. Accordingly, Cooper's application is hereby granted, and the applicant is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(49 U.S.C. 30118; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: October 15, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–26463 Filed 10–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20982]

Americanos U.S.A., L.L.C., et al.—Acquisition—Autobuses Adame, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Americanos U.S.A., L.L.C. (Americanos), a motor passenger carrier, and Americanos Acquisition Co., L.L.C. (Acquisition), a noncarrier, seek approval under 49 U.S.C. 14303 for acquisition, by either Americanos or Acquisition, of the operating authority and certain other properties of Autobuses Adame, Inc. (Adame), a motor passenger carrier. Additionally, Sistema Internacional de Transporte de Autobuses, Inc. (SITA), Greyhound Lines, Inc. (Greyhound), and Laidlaw, Inc. (Laidlaw), through their control of Americanos and Acquisition, seek approval to acquire control of the operating rights and properties of Adame and to continue in control of Acquisition if and when it becomes a motor passenger carrier. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by December 3, 2001. Applicants may file a reply by December 18, 2001. If no comments are filed by December 3, 2001, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20982 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of comments to applicants' representative: Fritz R. Kahn, 1920 N Street, NW. (8th floor), Washington, DC 20036–1601.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Americanos (MC–309813) is authorized to conduct regular-route passenger operations between certain points in the Southwestern States, focusing particularly on the Mexican border crossing points at El Paso, Laredo, and McAllen, TX. Americanos and Acquisition are controlled by SITA, which, in turn is controlled by Greyhound. Laidlaw, a noncarrier, indirectly controls Greyhound,[1] which holds nationwide operating authority (MC–1515).[2] SITA holds no operating authority but also controls two other motor passenger carriers: Autobuses Amigos, L.L.C. (MC–340462), operating between Brownsville and Houston, TX; and Gonzalez, Inc., d/b/a Golden State Transportation (MC–173837), operating between Mexican border points and points in various Western States. Adame holds operating authority (MC–237411) to conduct regular-route passenger operations between the Mexican border points at Roma, Hidalgo, and Brownsville, TX, and such cities as Houston, TX, Chamblee, GA, Charlotte, NC, Wilson, NC, Tallahassee, FL, and Immokalee, FL.

Acquisition has entered into an agreement to purchase the operating assets of Adame, including its operating authority. At some point at or before the time of closing, it is expected that Acquisition will be merged with Americanos, leaving Americanos as the surviving corporation. However, if the merger has not been completed at the time of closing, Acquisition will be the entity acquiring Adame's properties. Accordingly, authority is sought to permit either Acquisition or Americanos to be the purchaser, and to permit the merger of Acquisition and Americanos, if necessary.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction that we find consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transactions are consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicants have shown that the proposed transaction will have a positive effect on the adequacy of transportation to the public and will result in no increase in fixed charges. As to the effect on employees (*see* 49 CFR 1182.2(a)(7)), applicants state that the proposed transaction will have no significant adverse effect on employees. Applicants state that Americanos will be able to offer employment to qualified Adame employees, who they say will be needed to operate the expanded operations of the combined entities.

On the basis of the application, we find that the proposed transactions are consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding

[1] In addition to Greyhound (Delaware), Laidlaw (Canada) controls (through its subsidiaries Laidlaw Investments, Ltd. (Ontario) and Laidlaw Transportation, Inc. (Delaware)) Hotard Coaches, Inc. (Louisiana) (MC–143881), Coastliner d/b/a Mississippi Coast Lines (Mississippi) (MC–14388), Laidlaw Transit, Inc. (Delaware) (MC–161299), Chatham Coach Lines, Inc. (Delaware) (MC–172751), Willett Motor Coach Co. (New Jersey) (MC–16073), and (through noncarrier Laidlaw Transit Holdings, Inc. (Delaware)) Laidlaw Transit Services, Inc. (Delaware) (MC–163344), and Safe Ride Services, Inc. (Arizona) (MC–246193). In addition Laidlaw controls, through Laidlaw Transit Ltd. (Ontario) (MC–102189), a number of other motor passenger carriers conducting special and charter operations in the United States, including: (a) Greyhound Canada Transportation Corp. (Ontario) (MC–304126), which also controls Voyageur Corp. (Canada) (MC–360339); and (b) Gray Line of Vancouver Holdings Ltd. (Canada) (MC–357855), The Gray Line of Victoria Ltd. (Canada) (MC–380234), J. I. DeNure (Chatham) Limited (Canada) (MC–111143 (Sub-No. 1)), and Penetang-Midland Coach Lines Limited (Canada) (MC–139953 and MC–139953 (Sub-No. 1)).

[2] Greyhound also controls several regional motor passenger carriers: Carolina Coach Company, Inc. (MC–13300), operating in Delaware, Maryland, North Carolina, Pennsylvania, and Virginia; Continental Panhandle Lines, Inc. (MC–8742), operating in Kansas, Oklahoma, and Texas; Peoria Rockford Bus Lines, L.L.C. (MC–66810), operating in Illinois; Texas, New Mexico & Oklahoma Coaches, Inc. (MC–61120), operating in Colorado, Kansas, New Mexico, Oklahoma, and Texas; Valley Transit Company, Inc. (MC–74), operating in Texas; and Vermont Transit Co., Inc. (MC–45626), operating in Maine, Massachusetts, New York, and Vermont.

will be deemed vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition is approved and authorized, subject to the filing of opposing comments.

2. The proposed merger and the resulting acquisition and/or continuance in control, if necessary, are approved and authorized, subject to the filing of opposing comments.

3. If timely opposing comments are filed, the findings made in this decision will be deemed to be vacated.

4. This decision will be effective on December 3, 2001 unless timely opposing comments are filed.

5. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th St., SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: October 15, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–26435 Filed 10–18–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received requests from Bowling Green State University, Department of Economics (WB580, August 30, 2001), The University of Missouri St. Louis, Center for Transportation Studies (WB579, August 23, 2001), and the Association of American Railroads (WB463–4, September 28, 2001) for permission to use certain data from the Board's Carload Waybill Samples. A copy of the requests may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: James A. Nash, (202) 565–1542.

Vernon A. Williams,

Secretary.

[FR Doc. 01–26436 Filed 10–18–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34099]

The Kansas City Southern Railway Company—Acquisition and Merger Exemption—Gateway Western Railway Company and Kansas City Southern Transportation Company

The Kansas City Southern Railway Company (KCSR), Gateway Western Railway Company (GWWR), and Kansas City Southern Transportation Company (KCSTC) jointly filed a verified notice of exemption.[1] As part of a proposed corporate restructuring: (1) KCSTC will convey to KCSR all of the stock it owns in GWWR, which is all of GWWR's issued and outstanding stock, of all classes; and (2) KCSTC and GWWR will be merged into KCSR, with KCSR as the surviving entity. After the transaction is consummated, GWER will remain a wholly owned subsidiary of KCSR. Under the agreement and plan of merger, KCSR will assume all rights, obligations and business functions of its subsidiaries.

The transaction was scheduled to be consummated on or shortly after September 28, 2001, the effective date of the exemption.

The purpose of the transaction is to eliminate multiple filing, reporting and record keeping to and for various entities.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties stated that the transaction will not result in adverse changes in service levels, significant operational changers, or change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Although applicants do not expect any employees to be adversely affected by this merger and control transaction, they have agreed to apply employee protective conditions pursuant to 49 U.S.C. 11326(a). Therefore, any employees adversely affected by the merger and control transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34099 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on William A. Mullins, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 12, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–26283 Filed 10–18–01; 8:45 am]

BILLING CODE 4915–00–P

[1] KCSR, a Class I carrier, operating in the States of Nebraska, Iowa, Kansas, Missouri, Oklahoma, Arkansas, Texas, Louisiana, Mississippi, Tennessee, and Alabama, owns all of the issued and outstanding stock of KCSTC. KCSTC, a noncarrier holding company, owns all of the issued and outstanding stock of GWWR. GWWR, a Class II carrier operating in the States of Kansas, Missouri, and Illinois, owns all of the issued and outstanding stock of Gateway Eastern Railway (GWER), a Class III carrier operating in the State of Illinois.

DEPARTMENT OF THE TREASURY

Customs Service

Performance Review Board—Appointment of Members

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces the appointment of the members of the U.S. Customs Service Performance Review Boards (PRB's) in accordance with 5 U.S.C. 4314(c)(4). The purpose of the PRB's is to review senior executives' performance appraisals and to make recommendations regarding performance appraisals and performance awards.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Robert M. Smith, Assistant Commissioner, Human Resources Management, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 2.4–A, Washington, DC 20229; Telephone (202) 927–1250.

Background

There are two PRB's in the U.S. Customs Service.

Performance Review Board 1

The purpose of this Board is to review the performance appraisals of senior executives rated by the Commissioner of Customs. The members are:

Donnie Carter, Deputy Assistant Director, Recruitment and Hiring, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury
Anna Fay Dixon, Director, Office of Finance and Administration, Office of the Under Secretary for Enforcement, Department of the Treasury
Kenneth Papaj, Deputy Commissioner, Financial Management Service, Department of the Treasury
Barry Hudson, Director, Office of Financial Management, Department of the Treasury
Tim Skud, Director, Office of Trade and Tariff Affairs, Department of the Treasury.

Performance Review Board 2

The purpose of this Board is to review the performance appraisals of all senior executives except those rated by the Commissioner of Customs. The members are:

William F. Riley, Director, Office of Planning, Office of the Commissioner

Assistant Commissioners:

Douglas M. Browning, International Affairs
Marjorie L. Budd, Training and Development
S.W. Hall, Information and Technology/CIO
C. Wayne Hamilton, Finance/CFO
Dennis H. Murphy, Public Affairs
William A. Keefer, Internal Affairs
Robert M. Smith, Human Resources Management
Deborah J. Spero, Strategic Trade
Bonni G. Tischler, Field Operations
John C. Varrone, Investigations.

Dated: October 15, 2001.

Robert C. Bonner,

Commissioner of Customs.

[FR Doc. 01–26367 Filed 10–18–01; 8:45 am]

BILLING CODE 4820–02–P

Federal Register

Friday,
October 19, 2001

Part II

Department of Transportation

Federal Highway Administration

23 CFR Part 627 et al.
Design-Build Contracting; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 627, 635, 636, 637 and 710

[FHWA Docket No. FHWA–2000–7790]

RIN 2125–AE79

Design-Build Contracting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to implement regulations for design-build contracting as mandated by section 1307(c) of the Transportation Equity Act for the 21st Century (TEA–21), enacted on June 9, 1998. The TEA–21 requires the Secretary of Transportation (Secretary) to issue regulations to allow design-build contracting for selected projects. The regulations list the criteria and procedures that will be used by the FHWA in approving the use of design-build contracting by State Transportation Departments (STDs).

The regulation would not require the use of design-build contracting, but allows STDs to use it as an optional technique in addition to traditional contracting methods. The FHWA is soliciting comments on its proposed regulation which would establish prescribed policies and procedures for utilizing the design-build contracting technique on Federal-aid highway projects.

DATES: Written comments must be received on or before December 18, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, or submit electronically at *http://dmses.dot.gov/submit.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: *For technical information*: Mr. Gerald Yakowenko, Office of Program Administration (HIPA), (202) 366–1562. *For legal information*: Mr. Harold Aikens, Office of the Chief Counsel (HCC–32), (202) 366–1373, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590–0001. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

Section 112(b)(1) of title 23, United States Code, requires highway construction contracts to be awarded competitively to the lowest responsive bidder. A State must use competitive bidding procedures, unless it demonstrates that some other method is more cost effective or that an emergency exists. Similarly, 23 U.S.C. 112(b)(2) requires engineering service contracts to be awarded using qualifications-based selection procedures. Under the ''design-build contracting method,'' one entity (known as the design-builder) performs both engineering and construction of a project under a single contract with the owner. Prior to the TEA–21 (Public Law 105–178, 112 Stat. 107 (1998)), the design-build contracting method did not fully comply with existing statutes; however, the FHWA allowed the States to evaluate the design-build method on an experimental basis under Special Experimental Projects Number 14 (SEP–14)—Innovative Contracting.[1] Under SEP–14, twenty-four States and several local public agencies evaluated the design-build contracting technique.

Transportation Equity Act for the 21st Century

Section 1307 of the TEA–21 defines the term ''design-build contract'' as ''an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.'' In addition, section 1307 amends 23 U.S.C. 112 to allow the design-build contracting method after the FHWA promulgates a regulation prescribing the policies and procedures for utilizing the design-build contracting method on qualified Federal-aid highway projects. The TEA–21 defined qualified projects as projects that comply with the criteria in this regulation and whose total costs are estimated to exceed: (1) $5 million for intelligent transportation system projects, and (2) $50 million for any other project. It also provides certain key requirements that the FHWA must address in the development of these regulations. These requirements include, but are not limited to, the following:

- Prior to initiating the rulemaking process, the FHWA must consult with representatives from the American Association of State Highway and Transportation Officials (AASHTO) and representatives from other affected industries;
- The FHWA must complete the rulemaking process within three years of the date of TEA–21 enactment, or by June 9, 2001; and
- The regulation must: (1) Identify the criteria to be used by the Secretary in approving design-build projects, and (2) establish the procedures to be followed by Federal-aid recipients in seeking the FHWA's approval.

In addition, section 1307 modifies FHWA's statutes with several other key provisions regarding the use of the design-build contracting method, including the following:

- In general, an FHWA recipient may award a design-build contract for a ''qualified'' project using any procurement process permitted by applicable State and local law;
- Section 112(e)(2) of title 23, U.S.C., Standardized Contract Clause

[1] Information concerning Special Experimental Project No. 14 (SEP–14), ''Innovative Contracting Practices,'' is available on FHWA's home page: *http://www.fhwa.dot.gov.* Additional information may be obtained from the FHWA Division Administrator in each State.

Concerning Site Conditions, does not apply to design-build contracts;

• Final design under a design-build contract shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*); and

• Prior to the final rule and for projects outside of the qualified project limits, the FHWA may continue experimental evaluation and approval procedures under Special Experimental Project No. 14 (SEP–14)—Innovative Contracting.

Report to Congress

Section 1307(f) of the TEA–21, ''Report to Congress,'' requires the FHWA to assess the impacts of design-build contracting by June 9, 2003. Specifically, the FHWA is required to report on the following items:

• An assessment of the effect of design-build contracting on project quality, project cost, and timeliness of project delivery;

• Recommendations on the appropriate level of design for design-build procurements;

• An assessment of the impact of design-build contracting on small businesses;

• An assessment of the subjectivity used in design-build contracting; and

• Such recommendations concerning design-build contracting procedures as the Secretary determines to be appropriate.

Presently the FHWA has little data available concerning the cost-effectiveness of design-build contracting in the transportation industry. Transportation Research Record No. 1351, titled ''Final Evaluation of the Florida Department of Transportation's Pilot Design/Build Program,'' [2] documents the Florida DOT's (FDOT) early experience with eleven State-funded design-build projects. This study was performed by the University of Florida, Gainesville, FL in 1992.

In a comparison with FDOT's traditional design-bid-build projects, the researchers found that the average design-build direct cost was 4.59 percent greater than the average design-bid-build cost. However, the statistical analysis of the data did not confirm the difference in means (because of the small sample size and the data variability, the direct cost comparison was inconclusive). However, the average design-build construction time was 21.1 percent less than the average for design-bid-build projects. Also, the researchers noted significant differences in the average increases for contract cost. The design-build projects had an average cost increase of 4.09 percent versus FDOT's 1990 design-bid-build project average cost increase of 8.78 percent.

By the time the report to Congress is developed, the FHWA anticipates that there will be more experience with the design-build contracting technique. The FHWA will be in a better position to assess the true impacts of design-build contracting on the transportation industry.

The FHWA welcomes comments on this subject. The agency invites recommendations concerning how we might assess the cost effectiveness of design-build contracting. Also, we invite comment on what techniques and procedures should be used in assessing the issues identified by Congress in section 1307(f).

Pre-Rule Workshop and Outreach

Throughout 1998, 1999, and 2000, the FHWA representatives met with representatives from the AASHTO and other affected industries. During these meetings, the FHWA, the AASHTO and industry discussed issues relating to design-build contracting. The FHWA was invited to attend numerous association annual meetings and also met individually at the request of some industry representatives. The FHWA employees attended the following meetings:

• The American Consulting Engineer's Council (ACEC), March 5, 1999, Washington, DC;

• The Associated General Contractors of America (AGC), March 23, 1999, Las Vegas, NV;

• The American Road Builders and Transportation Association (ARTBA), March 24, 1999, Las Vegas, NV;

• The Design-Build Institute of America (DBIA), March 25, 1999, Las Vegas, NV;

• AASHTO's Standing Committee on Highways, April 17, 1999, Little Rock, AR;

• AASHTO's Subcommittee on Design, June 22, 1999, Dewey Beach DE;

• AASHTO's Value Engineering Conference, July 14, 1999, Branson, MO; and

• AASHTO's Subcommittee on Construction, August 2, 1999, New Orleans, LA.

In 1999, employees from the FHWA's Fort Worth, Texas office performed a field review of existing design-build projects. This team interviewed engineers and administrators who are involved with design-build projects in seven States: Arizona, California, Colorado, Florida, Michigan, Ohio, and Utah. Representatives from construction contractors, design consultants, the STDs, toll road agencies and other individuals were interviewed to share experiences and capture the lessons learned regarding the design-build contracting technique.

The FHWA representatives attended outreach sessions related to the design-build rulemaking effort at two national conferences. The first annual ''Design-Build for Transportation Conference'' was held April 21–23, 1999, in Salt Lake City, UT. This conference was sponsored by the Design-Build Institute of America, the American Society of Civil Engineers, and the FHWA. A special two-hour outreach session was sponsored by the FHWA to seek comments and suggestions concerning our development of this regulation. The second annual ''Design-Build for Transportation Conference'' was held March 29–31, 2000, in Tampa, FL. This conference was sponsored by the Design-Build Institute of America, the AASHTO, and the FHWA. An FHWA representative presented an update on the status of the rulemaking effort and several members of the audience expressed their recommendations for items that should be considered in the rulemaking process.

In addition, on December 16, 1999, the FHWA sponsored a one-day pre-rule workshop for the design-build regulation in Washington, D.C. More than 100 registrants from 26 States, Puerto Rico, and the District of Columbia attended. They represented 13 STDs, 1 county, 3 Federal agencies, 2 construction organizations, 12 construction companies, 16 engineering firms, and 1 engineering organization. Representatives from law firms, auditing agencies, insurance companies, and the media also attended the December 16 workshop. Representatives from the AASHTO and each of the major industry associations presented their viewpoints on issues that should be considered in the rulemaking process.

Many of the comments received at these meetings have been incorporated into this document. A summary of the minutes from the December 16, 1999 meeting is available on the FHWA's web page at the following address: *http://www.fhwa.dot.gov/infrastructure/progadmin/contracts/d_build.htm.*

[2] R. D. Ellis, Jr. and A. Kumar, ''Final Evaluation of the Florida Department of Transportation's Pilot Design/Build Program,'' 1992, pp. 94–105 of the Transportation Research Record No. 1351, Transportation Research Board (TRB). This publication is out of print, but a photocopy may be purchased from the TRB Publications Sales Office at Lockbox 289, Washington, DC 20055. Telephone (202) 334–3213. See TRB web site at URL: *http://nationalacademies.org/trb.* A copy is in the file for FHWA Docket No. 2000–7790.

Section-by-Section Analysis

This section includes a section-by-section analysis of the proposed requirements and incorporates summary information regarding comments received during the FHWA's pre-rule workshop and outreach sessions. The comments are, of necessity, summarized in each of the relevant sections of the proposed rule and are intended to provide an overall perspective on the comments submitted to the FHWA concerning design-build contracting.

General Comments

During the pre-rule workship, many individuals and associations recommended that the FHWA keep the rules simple and flexible. It is apparent that States which have evaluated design-build under SEP–14 have their own unique needs and preferences. Each would like to maintain that flexibility and not be limited by any regulation which might hinder project delivery, innovation, or cost savings. The industry associations, on the other hand, raised specific issues concerning the procurement process and the importance of minimizing subjectivity in the selection process. Position papers for the AASHTO and the major industry associations, which participated in the December 16, 1999, pre-rule workshop meeting are posted on the FHWA's web site at: *http://www.fhwa.dot.gov/infrastructure/progadmin/contracts/d_build.htm.*

In general terms, the AASHTO expressed the need for a simple, yet flexible rule which will create a framework for encouraging the development of a design-build process in each State. The rule should not impede project delivery, innovation, or cost savings. The AASHTO encouraged the FHWA to develop a rule which would foster the mainstreaming of the design-build process into the transportation arena. Finally, the AASHTO asserted that a rule cannot be written to ensure complete fairness in the procurement process, but AASHTO noted that STDs must make every reasonable effort to provide an open and understandable process.

The construction industry was represented at the pre-rule workshop meeting by the Associated General Contractors of America (AGC) and the American Road and Transportation Builders Association (ARTBA). They echoed similar comments and reservations regarding issues that should be considered in the proposed rule. The ARTBA stated that there is no clear industry consensus regarding the design-build contracting method. Construction firms often have different opinions depending on such factors as their size and culture. Both the ARTBA and the AGC stated that the traditional ''design-bid-build'' [3] system is the preferred delivery system for publicly financed transportation construction projects and should be used whenever possible. The AGC said that States should demonstrate how a specific project would benefit from the use of the design-build method before a delivery system is chosen. Both associations are concerned with the potential for subjectivity in the selection process and the need for a fair, equitable, and consistent procurement process.

The ACEC recommended that the proposed rule be crafted in a manner to allow the STDs to evaluate and select the project delivery system which will represent the best value for a specific project. The proposed rule should promote a best value/value-based selection process that evaluates cost, technical qualifications, technical approach, and quality. In broad terms, the ACEC recommended a process which would encourage innovation in addition to design and construction flexibility.

The Design-Build Institute of America (DBIA) illustrated the positive aspects of the design-build process and hoped that the FHWA's proposed rule would provide STDs and local agencies with maximum flexibility in structuring their procurement processes. The DBIA strongly supports the use of a best value selection process in procurement. It blends the attributes of price, qualifications and other technical properties to arrive at the best value for the project owner.

Based on a review of all of the comments received during the pre-rule workshop process, the FHWA proposes to give Federal-aid recipients as much flexibility as possible in the selection of the appropriate form of design-build contracting for their individual projects. We have developed the proposed regulation with two goals in mind:

- Continue the flexibility that exists under the current SEP–14 design-build program, and
- Develop a model for the appropriate use of the design-build process in each State.

This proposed rule would provide a general framework for the procurement of design-build projects, ranging from simple projects which may be awarded on a low-bid basis to complex projects, which may utilize a best-value selection process through competitive negotiation. Federal agencies, which contract directly with the private sector for goods and services, currently have such standards in the Federal Acquisition Regulations (FAR). These regulations define the standards for contracting in direct Federal procurement, including design-build and competitive negotiation. Specifically, the concepts in 48 CFR Part 15, Contracting by Negotiation, provide standards which have been tested by numerous contracting agencies and the courts.

The FHWA proposes to adopt a modified version of the FAR provisions. We believe our proposed rule would satisfy both of the above mentioned goals. Accordingly, the STDs will then have the same degree of flexibility in procurement as other Federal agencies which procure directly for contract services. Also, industry representatives who contract in both the direct Federal and Federal-aid transportation markets will be subject to the same standards of fairness in competitive negotiation.

Specific Comments

Part 627—Value Engineering

It is necessary to amend the existing value engineering regulations in 23 CFR 627 to clarify how the FHWA's value engineering policies apply to design-build projects.

During the pre-rule workshop process, both the AASHTO and the AGC provided recommendations on this subject. The AASHTO believes that the STDs should have the flexibility to use value engineering clauses where appropriate. The AGC stated that value engineering proposals should not be permitted during the proposal stage of design-build procurement, but the AGC believes that post-award value engineering proposals may be acceptable.

The FHWA believes that flexibility is appropriate for this issue. New paragraph (e) in § 627.5 would provide several options for meeting the value engineering provision of § 627.1(a). This provision requires States to perform a value engineering analysis on all National Highway System (NHS) projects with an estimated cost of $25 million or more. The first option noted in the proposed rule would allow STDs to perform a value engineering analysis prior to the initiation of the procurement process. In lieu of this, STDs may require the design-builder or other parties to perform a value engineering analysis at other points in the project development process. Also,

[3] Design-bid-build'' means the traditional delivery method where design and construction are sequential steps in the project development process.

in keeping with the FHWA's existing philosophy regarding value engineering change proposal clauses, these provisions may be used at the STD's discretion, but are not required, for design-build projects.

Part 635—Construction and Maintenance

Section 635.102 Definitions

It is necessary to amend the existing regulations to clarify how the FHWA's requirements for Federal-aid construction contracts will apply to design-build projects. A definition is added for ''design-build project.''

The term ''certification acceptance'' is removed. Section 1604 of the TEA–21, which replaced 23 U.S.C. 117 (formerly titled ''Certification Acceptance''), removed this term and replaced it with the new program ''High Priority Projects Program.''

Section 635.104 Method of Construction

New paragraph (c) would be added to provide a reference to new part 636 and the contracting provisions for Federal-aid design-build projects.

Section 635.107 Participation by Disadvantaged Business Enterprise

During the design-build pre-rule workshop process, the AASHTO recommended that specific Disadvantaged Business Enterprise (DBE) commitments should not be mandated at the time of award. The AGC stated its belief that DBE requirements should be the same as for traditional projects; however, where STDs are meeting goals through race neutral means, contractual goals should not be stated in the Request for Proposals document. The AGC also stated that DBE utilization should not be a weighted factor in selecting the successful offeror.

The DBE program requirements under the U.S. DOT's DBE regulation in 49 CFR part 26 are applicable to FHWA design-build projects. The STDs may establish an overall DBE contract goal for design-build projects. The design-builder in turn may establish appropriate goals for the subcontracts it lets to meet the overall design-build contract goal. The STDs are to maintain oversight of the design-builder's activities to ensure compliance with the provisions of 49 CFR part 26.

We are proposing several different changes to § 635.107. First, we are proposing to change the title from ''Small and disadvantaged business participation'' to ''Participation by disadvantaged business enterprise.'' This is being done to be consistent with the terminology in the U.S. DOT's DBE program in 49 CFR part 26. Paragraph (a) would also be modified to provide the correct reference to 49 CFR part 26.

Second, we are proposing to add new paragraph (b) to clarify how DBE requirements will apply to design-build projects. These provisions would state that offerors do not need to furnish the specific commitment information required by 49 CFR 26.53(b)(2) prior to the award of a contract. However, the design-builder must indicate that it can obtain the necessary DBE commitments. If the design-builder cannot obtain the necessary commitments, it must document to the STD its good faith efforts, as described in 49 CFR 26.53. Under 49 CFR 26.53(e), the STD or contracting agency must maintain oversight to ensure contractual requirements are met throughout the life of the contract. Lastly, the proposed rule would prohibit STDs from providing additional credit during the proposal evaluation process for offerors who indicate that they will attain DBE participation above the contract goal. The DBE program requirements are one of many contractual requirements which are binding on the design-builder; however, STDs must not give preferences to offerors who exceed the DBE contract goals.

Section 635.109 Standardized changed condition clauses

Section 1307(b) of TEA–21 modified 23 U.S.C. 112(e)(2) such that the FHWA's requirement to utilize standardized changed condition clauses on all Federal-aid construction projects will not apply to design-build projects. However, depending on the level of risk sharing between the STD and the design-builder, modified versions of these clauses may be appropriate in certain circumstances.

During the pre-rule meeting with the AASHTO and industry, the AGC stated that the proposed rule should require the use of a changed condition clause in design-build contracts. The AGC asserted that such clauses will limit litigation and reduce overall project cost by precluding the need to include contingencies in prices for unknown conditions or for undertaking extensive pre-proposal geologic studies. The ACEC addressed this issue indirectly in recommending that the preliminary design should be advanced to the point where risks, such as differing site conditions, are identified and properly allocated. The other associations did not comment on this issue.

The FHWA believes that certain elements of the standardized changed condition clauses may be appropriate for certain design-build projects. Others may be included at the discretion of the contracting agency depending on the risk allocation for a given project. Specifically, the differing site conditions clause (or a modified version of the clause in 23 CFR 635.109(a)(1)) may be specified by an owner depending on the specific risks and responsibilities which are being allocated to the design-builder.

The ''Suspensions of Work Ordered by the Engineer'' clause is appropriate in any situation where the contracting agency suspends or delays the work for an unreasonable time period. Therefore, the FHWA is requiring its use on all design-build contracts.

The intent of the ''Significant Changes in the Character of Work'' clause in 23 CFR 635.109(a)(3) is to provide equitable adjustments for changes in quantities and other alterations in the work (designed by the owner) as necessary to complete the project. In the case of a design-build project, the STD may have delegated this responsibility to the design-builder and it may not be appropriate to include such change clauses in a design-build contract. In addition, the ''lump sum payment'' structure of most design-build contracts does not correlate with the ''unit price payment'' structure of traditional design-bid-build contracts. In other cases, an owner may believe that it is appropriate to include provisions similar to the ''significant changes in the character of work'' clause in a design-build contract. However, such use would be optional under this proposed rule.

New paragraph (c) would be added to require the use of the standardized suspensions of work ordered by the engineer clause (23 CFR 635.109(a)(2)) for all design-build projects. However, the STDs would be encouraged to consider using differing site condition clauses and significant changes in the character of work clauses which are appropriate for the risk and responsibilities that are shared with the design-builder.

Section 635.110 Licensing and Qualification of Contractors

The FHWA proposes to amend this section to clarify how the requirements for licensing and qualification of contractors would apply to design-build contracts. During the pre-rule workshop process there were several comments on this issue.

The AASHTO recommended that contracting agencies be permitted to require contractor prequalification and licensed engineers in accordance with

the owner's requirements or State and local statutes. The ACEC recommended that flexibility be provided in prequalification and licensing requirements to allow a design firm to lead the design-build team. While the AGC did not specifically comment on this issue, it indicated that prequalification is a necessary element in the design-build process to limit the number of design-builders that will incur the expense of preparing proposals.

The ARTBA suggested that contracting agencies should use some type of screening process which might be based on prequalification, a surety bond system, or merely a demonstration of understanding technical requirements. However, the ARTBA recommended against a short listing process as it believes that anyone who is qualified to perform the work should be allowed to submit a proposal. The DBIA stated that prequalification is essential for effective design-build contracting. The DBIA recommended that the proposed rules provide that design-builders must clearly demonstrate their ability to become licensed or to practice professionally in the State in which the project is located.

In consideration of all of these comments, the FHWA has proposed to allow States to require certain prequalification requirements if required by their own statutes or procedures. Prequalification may be required as a condition of a proposal submission if it is required by State statute or policy; however, the STD must allow adequate time between project advertisement and the opening of cost/technical proposals for proposers to become prequalified.

In addition, new paragraph (f) would be added to allow the STDs to use their own bonding, insurance, licensing and qualification procedures for any phase of design-build procurement. Geographic preferences are prohibited. The STDs may require offerors to demonstrate their ability to become licensed; however, licensing procedures may not serve as a barrier for the consideration of otherwise responsive proposals.

Section 635.112 Advertising for Bids

During the pre-rule workshop process, the AASHTO recommended that the FHWA authorization should take place prior to offering the project for advertisement. The AASHTO suggested that this authorization should carry through the rest of the project's development.

We are proposing two changes to this section. First, this section would be retitled to read ''Advertising for bids and proposals.'' We prefer the term ''proposal'' rather than ''bids'' for design-build contracting. The term ''bid'' is usually associated with an invitation for bids under the design-bid-build method of contracting. The term ''proposal'' is usually associated with the design-build contracting method.

Second, we are proposing to add new paragraph (i). Paragraph (i) would amend the requirements of this section for a design-build project. The FHWA Division Administrator's approval of the Request for Proposals (RFP) document will constitute the FHWA's project authorization and the FHWA's approval of the STD's request to release the RFP document. The STD may decide the appropriate solicitation schedule for the project advertising, release of the request for proposals, and proposal submission deadlines.

Section 635.113 Bid Opening and Bid Tabulations

New paragraph (c) would be added to allow STDs to use their own procedures for the process of receiving, reviewing and processing design-build proposals. The STD will submit a tabulation of proposal costs to the FHWA Division Administrator as is presently done for traditional design-bid-build projects.

Section 635.114 Award of Contract and Concurrence in Award

New paragraph (k) would provide a reference to the design-build contracting requirements of part 636.

Section 635.116 Subcontracting and Contractor Responsibilities

The FHWA's current subcontracting provision requires the prime contractor to perform at least 30 percent of the work (less specialty items). During the pre-rule workshop process, the AASHTO recommended that the States be allowed to determine the required percentage of work to be performed by the design-builder and/or its subcontractors. The DBIA recommended that the FHWA not establish a requirement, but leave this issue to the discretion of the design-builder. The ACEC recommended flexibility in all procurement policies to allow the situation where a design firm serves as the leader on a design-build team. The AGC recommended no change in the existing requirement. The other associations did not provide comments on this issue.

The FHWA proposes to provide greater flexibility in this area for design-build contracts. We believe that the contract agency is in the best position to establish minimum percentages of work that must be accomplished by the design-builder. Therefore, the proposed rule would not apply the existing 30 percent requirement to design-build projects. At their discretion, STDs may establish minimum percentages of the work which would be accomplished by the design-builder.

Accordingly, we propose to add new paragraph (d). Paragraph (d) would allow the STDs to determine the minimum amount of work which must be accomplished by the design-builder. In addition, the FHWA has also included a prohibition on any procedure, requirement, or preference which imposes minimum subcontracting requirements or goals (other than those necessary to meet the Disadvantaged Business Enterprise program requirements of 49 CFR part 26). Subcontracting goals may serve as a local contracting preference, thereby presenting an artificial contractual barrier to the design-builder's ability to manage an efficient contract. Therefore, we are proposing to prohibit subcontracting goals.

Section 635.122 Participation in Progress Payments

The proposed rule would add paragraph (c) which would require STDs to specify how progress payments will be made in the RFP document on lump sum design-build contracts.

Section 635.309 Authorization

This proposed rule would define the RFP document approval as the key point in the Division Administrator's authorization of a design-build project. The Division Administrator's approval of the RFP document would constitute the FHWA's authorization of the project. This includes approval to proceed with the advertisement /release of the RFP document and, subject to concurrence-in-award, proceed with the design and construction of the project. The requirements for authorization of a design-build project are added in a new paragraph (p).

Section 635.411 Material or Product Selection

In general, the associations supported the concept of applying the existing restrictions for proprietary products to design-build projects. The current requirement for traditional design-bid-build construction projects generally prohibits the STDs from specifying proprietary products in the plan and specifications, unless the proprietary product is: (1) Bid competitively with equally suitable unpatented products, (2) used for research, or (3) necessary for synchronization purposes. For design-

build projects, the prohibition on specifying proprietary products would apply to the requirements in the RFP document. The design-builder would be free to use a proprietary product if it met the requirements of the design-build contract.

The AASHTO stated that the proprietary product restrictions should be in accordance with current requirements. Any allowable exceptions should be clearly defined in the contract documents. The AGC stated that the specification of proprietary products in the RFP should be strongly discouraged. The AGC believed that specifying proprietary products undermines the design-builder's creativity in developing a proposal to meet the owner's needs. The DBIA stated the current prohibition for specifying proprietary products in the contract documents should be continued. The STDs employing design-build should be using performance specifications seeking quality end results in lieu of means and methods prescriptive specifications. The FHWA concurs with the recommendations of the associations and this proposed rule would extend the current requirements to the design-build RFP document. The requirements for material or product selection in design-build contracts are added in paragraph (f).

Section 635.413 Warranty Clauses

There was a difference of opinion among the associations regarding the use of warranty clauses on design-build projects. Some, but not all, of the associations elected to comment on the warranty issue. The AASHTO stated that the use of warranties should be at the owner's discretion. If an owner believes that warranties are desirable, they should carefully consider and clearly communicate the requirements in the RFP document. The ACEC expressed concern over any attempt to extend uninsurable warranty provisions to professional engineering services. The AGC stated that warranty requirements should not be addressed in the proposed rule. The AGC believes that this is a significant issue that should be addressed separately. The DBIA indirectly addressed this issue in the subject of risk allocation. The DBIA supports the concept of appropriate risk delegation by including warranty provisions only where certain design and construction features are within the control of the design-builder.

The FHWA recognizes the significant concern regarding warranty issues and agrees with the AASHTO that STDs should have the discretion to use warranties where appropriate. The proposed rule would not amend the current warranty regulation in 23 CFR 635.413 which limits the application of warranties to specific products or construction features on NHS projects. The STDs would continue to use their own warranty procedures on non-NHS projects.

Part 636—Design-Build Contracting

This part would provide new requirements for Federal-aid design-build projects. The agency believes it is necessary to provide additional explanation for certain new requirements which are not self-explanatory. Specific comments on these new provisions follow.

Section 636.102 Does This Part Apply to Me?

This part is written in the plain-language format. The pronoun ''you'' refers to the STD, the primary recipient of Federal-aid funds in a State. Where the STD has an agreement with a local public agency (or other governmental agency) to administer a Federal-aid design-build project, the term ''you'' will also apply to that contracting agency.

Section 636.103 What Are the Definitions of Terms Used in This Part?

Many of the definitions used in this section are taken from the DBIA's ''Design-Build Manual of Practice,'' [4] Document Number 103. Modifications are made to certain terms to agree with the actual use in the Federal-aid highway program. Other definitions, such as the definition of a ''qualified project,'' are taken from section 1307 of the TEA–21.

Section 636.106 What Type of Projects May Be Used With Design-Build Contracting?

In its recommendations to the FHWA, the AASHTO stated that the proposed rules for design-build should not limit a State's ability to gain maximum benefit from the process. States should not be prohibited from using the most effective selection process for each individual project. Similarly, the ACEC recommended that owners should be provided with the flexibility to adopt the project delivery method that offers the best value, given the unique opportunities, constraints, risks, and demands of a particular project. The DBIA strongly supported a process which will encourage the use of design-build. On the other hand, both the ARTBA and the AGC expressed reservations with the design-build method and recommended that the traditional design-bid-build method remain the preferred method of contracting. The AGC stated that design-build should only be allowed for use on Federal-aid projects where it can be demonstrated that traditional contracting methods are not appropriate or where there are unique problems or circumstances associated with a particular project. The ARTBA recognized that there may be certain projects that will lend themselves to design-build including projects incorporating innovative financing arrangements (certainty in price and/or scheduling), and projects incorporating specific technical challenges. The ARTBA, however, believes that design-build should only be used where it would provide the public with a real advantage which is not readily provided by the traditional design-bid-build method. The ARTBA also recommended that the estimated contract amount should not be a determining factor in an owner's criteria to use design-build.

Considering the sharp division of comments offered by the associations, and the congressional mandate of section 1307, we propose providing broad discretion to the States regarding project selection criteria. We have not set specific criteria which limit the type of projects which are suitable for design-build contracting. This is a subject which is better addressed in non-regulatory guidance.

Under SEP–14, the States have evaluated more than 140 design-build projects since 1991. These projects include various types of surface transportation projects, including the following: simple roadway resurfacing, bridge replacements, interchange modifications, intelligent transportation system installation, roadways on new alignment, vehicle emission inspection stations, ferry boats, tunnel reconstruction and mega-construction projects, such as the I–15 reconstruction in Utah. Based on the FHWA's experience with the SEP–14 program, we do not believe that it is necessary or appropriate to limit the design-build contracting technique to projects with a certain type of work or contract size. Federal-aid recipients will be given the flexibility to choose the correct contracting method which is appropriate for the project objectives based on project delivery time, cost, construction schedule and/or quality.

[4] The Design-Build Manual of Practice,'' Document Number 103 (Design-Build Definitions), is available for purchase from the Design-Build Institute of America, 1010 Massachusetts Avenue, N.W., Suite 350, Washington, D.C. 20001 ($9 for DBIA members; $12 nonmembers). Online publication information is available at URL: *http://www.dbia.org/pubs.*

Section 636.107 Does the Definition of a ''Qualified Project'' Limit the Use of Design-Build Contracting?

The TEA–21 requires the FHWA to establish the procedures to be followed by an owner for obtaining the Secretary's approval for the use of design-build contracting. The procedures for obtaining the FHWA's approval for traditional project authorization are established and well known by the STDs. The procedures for requesting the FHWA authorization of Federal-aid design-build projects would be the same as any other project funded by the FHWA. However, after the effective date of the final rule, design-build projects which do not meet the TEA–21 definition of a ''qualified project'' must follow SEP–14 procedures.

The AASHTO recommended that all design-build projects be exempt from the SEP–14 process once a final rule is developed. If this is not possible, the AASHTO recommended that the FHWA Division Offices be granted approval authority for the SEP–14 program because they have a better understanding of State and local needs. The AASHTO also advocates a simplification of the SEP–14 process and a change in the ''qualified project'' limit from $50 million to $10 million.

The FHWA agrees with many of the AASHTO's recommendations; however, the definition of a ''qualified project'' is a statutory requirement which the FHWA cannot change. Under the proposed rule, the FHWA Division Offices would use the provisions of the final rule in approving ''non-qualified'' projects for inclusion under SEP–14. Projects which do not comply with the provisions of the final rule will be referred to the FHWA Headquarters for concept approval under SEP–14.

Section 636.108 How Does the Definition of a ''Qualified Project'' Apply to ITS Projects?

The AASHTO recommended that an ITS design-build project be defined as one that applies information and control technologies to improve the safety, efficiency, and operation of the transportation system.

In defining a ''qualified project'' in section 1307 of the TEA–21, the Congress did not provide additional guidance on the $5 million limitation for ITS projects. For this reason, the FHWA is reluctant to provide further clarification in the proposed rule. However, we believe that for eligibility purposes, a design-build project with an estimated cost of $5 million or more, which is primarily for ITS technology purposes, complies with the definition of a ''qualified project.''

Section 636.109 How Does the NEPA Review Process Relate to the Design-Build Procurement Process?

Several of the associations provided comments regarding the application of the FHWA's National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) requirements to design-build projects. The following are the views of the industry associations concerning the relationship of the NEPA process and the design-build procurement process.

The AASHTO recommended that the NEPA process be completed prior to the award of a design-build project to ensure that all environmental concerns and remedial measures are sufficiently detailed for the design-builder. However, in cases where environmental impacts are expected to be minimal and the outcome of the NEPA review appears certain, the AASHTO believes the RFP document could be released after approval of the final environmental impact statement. The AASHTO stated that the responsibility for obtaining environmental approval rests with the owner. Also, the AASHTO recommended that the public's perception of the NEPA process and its relation to the design-build procurement process should be carefully considered. Additionally, the AASHTO suggested that the NEPA and design-build project delivery issues are best addressed by the individual project owner in consultation with the FHWA Division Office.

The AGC indicated that the NEPA process should be complete prior to the selection of the design-builder. The AGC supports the concept of the owner being responsible for all necessary environmental permits.

The ACEC was concerned about the potential adverse public perception where the design-build procurement process is initiated prior to the conclusion of the NEPA process. The ACEC recommended that the FHWA discourage owners from releasing the RFP document prior to the completion of the NEPA process. However, the ACEC suggested the solicitation of qualifications should be allowed at the discretion of the owner.

The FHWA agrees with many of the recommendations provided by the associations. Section 1307(a)(3)(B) of the TEA–21 states the following: ''Final design under a design-build contract referred to in subparagraph (A) shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).'' The FHWA believes the congressional intent of this provision was to ensure full compliance with NEPA for all design-build projects. To ensure a complete unbiased NEPA process, it is imperative that the STDs perform a level of design and environmental review which is necessary to fully evaluate the range of reasonable alternatives chosen to meet project goals and avoid adverse environmental impact. Project design activities beyond this stage involve a certain level of risk.

The FHWA's NEPA review process was developed to ensure that environmental impact information for any federally funded action is available to public officials and citizens before decisions are made and before actions are taken. The success of the NEPA process is based on the assumption that there will be an objective and unbiased review of all reasonable alternatives that address project needs and are prudent in terms of avoiding potential environmental effects. Moreover, the public perception of the NEPA review process is very important to the FHWA and STDs. The perception of an unbiased review process should not be compromised by a decision to release the design-build RFP prior to the conclusion of the NEPA review process. Therefore, the NEPA review process should be complete (an approval received for a Categorical Exclusion, Finding of No Significant Impact, or a Record of Decision as defined in 23 CFR 771.113(a)) prior to releasing the RFP document.

The FHWA's environmental regulations require the evaluation of alternatives, their environmental consequences, and the incorporation of mitigation measures (avoidance, minimization, and compensation) prior to proceeding with an action. Project activities beyond those necessary to answer environmental questions during the NEPA review process (for example: final design, right-of-way acquisition, and construction) are not permitted prior to the conclusion of the NEPA review process.

The FHWA also agrees with the association recommendations to ensure that the RFP document address all environmental commitments and mitigation measures. Due to the nature of the design-build process, proposers often expend significant effort preparing technical and cost proposals in response to an RFP. Therefore, STDs have a responsibility to: (1) Ensure that the RFP scope of work includes the details related to all environmental commitments and (2) assure proposers that the scope will not change as a result of the environmental review process.

This will minimize the need for proposers to include contingencies in their cost proposals.

The proposed rule would allow the request for qualifications (RFQ) solicitation to proceed prior to the conclusion of the NEPA process. However, the RFP should not be released prior to the conclusion of the NEPA process.

Section 636.110 What Procedures May Be Used for Solicitations and Receipt of Proposals?

Rather than adopting a modification of FAR provisions for this subject, the FHWA has elected to allow the States to use their own procedures for the solicitation and receipt of proposals.

Section 636.111 Can Oral Presentations Be Used During the Procurement Process?

The proposed language in this section is a modified version of the requirement in 48 CFR 15.102, Oral Presentations. The modifications provide flexibility for State procurement officials.

Section 636.112 May Stipends Be Used?

All of the associations which provided comments to the FHWA during the pre-rule workshop meeting supported both the owner's use of stipends and Federal-aid participation in the cost of stipends. The AASHTO indicated that the payment of stipends to firms submitting competitive proposals should be at the owner's discretion. The AGC recommended that the stipend be based on some formula related to the value of the project and not selected arbitrarily. The AASHTO also stated that owners should have full rights to retain and use ideas from proposals when stipends are accepted by the offerors. The DBIA said that stipends are an effective means for encouraging competition. When used in combination with short listing or prequalification procedures, the contracting agency will benefit from a cost effective procurement process.

Based on our preliminary experience with SEP–14 design-build projects, the FHWA agrees that stipends appear to be cost effective on large projects where offerors may be required to incur significant costs to submit a proposal. The use of stipends in such cases should: (1) Offset costs incurred by the offerors for their substantial efforts and thereby ensure a minimum level of competition through the end of the procurement process, (2) ensure that smaller companies are not put at a significant competitive disadvantage, and (3) send a message to potential offerors that the owner is serious about awarding a contract and receiving a quality proposal.

Section 636.113 Is the Stipend Amount Eligible for Federal Participation?

The cost of stipends is eligible for Federal-aid participation. The FHWA has listed a range of costs based on the estimated proposal development costs. In addition, the proposed rule states that STDs may retain the right to use ideas from unsuccessful offerors if State law provides for this.

Section 636.114 What Factors Should Be Considered in Risk Allocation?

The AASHTO recommended that the assignment of risk be determined by the owner and clearly defined in the procurement and contract documents. The ACEC stated that the RFP document should clearly define the owner's requirements and assign risk to the party who is best able to manage it. The AGC cautioned against the temptation to shift all project related risk to the design-builder. The AGC recommended that contracts incorporate standardized change condition clauses to reduce the offeror's need to cover contingencies through increased project costs. The AGC also supports the concept of incentive and disincentive provisions to reduce the actual construction time and reduce impacts to the traveling public. The DBIA noted that an unfair allocation of risks to offerors may lead to increased bid prices, change order disputes, and litigation costs. According to the DBIA, studies have shown that the risk best belongs to the party who is best able to evaluate, control, and bear the cost of the risk. Many risks and liabilities are best shared. Every risk has an associated and unavoidable cost, which must be assumed somewhere in the process.

The FHWA concurs with the recommendations of the Associations. Section 636.114 would encourage STDs to identify, consider, and allocate risks in the procurement documents.

Section 636.115 May I Meet With Industry To Gather Information Concerning the Appropriate Risk Allocation Strategies?

The proposed requirements of this section are modified from 48 CFR 15.201, Exchanges with Industry Before Receipt of Proposals. This section will encourage the STDs to gather the appropriate information concerning risk allocation prior to the initiation of the procurement process. The FHWA is proposing modifications to the FAR provisions to give the STDs the necessary flexibility in procurement.

Section 636.116 What Organizational Conflict of Interest Requirements Apply to Design-Build Projects?

The organizational conflict of interest subject generated significant comments from many associations. Several commenters requested that owners be required to list specific conflict of interest provisions in all solicitations for design-build projects. Most of the associations believed that the owner's consultant or sub-consultant (who was involved in the development or preparation of the RFP document) should be excluded from the proposal process because this may present a real or an apparent conflict of interest. In addition, the AASHTO recommended that consultants or sub-consultants who participate as offerors should not be involved in the evaluation of proposals or the administration of design-build contracts. However, the AASHTO suggested that, at the option of the owner, a consultant should be allowed to join multiple proposal teams.

The AGC recommended that the regulation should not prohibit consultants from working for more than one bidder or from participating on the successful design-build team if the consultant worked with a different firm during the proposal stage.

The ACEC is concerned about the potential for conflict of interest when an owner's consultant joins one of the prospective offerors. However, it identified cases where it may be appropriate to allow the owner's sub-consultants to participate in the proposal process. One example might be where the sub-consultant provides limited information in the project development process and this information is provided to all offerors (such as a geotechnical engineering firm).

The DBIA stated that, as an overall guideline, relationships between owner's consultants and design-build team members should be avoided. Owner's consultants should not be permitted to participate on design-build proposal teams. However, an exception may be made for certain consultants who assisted the owner with project development activities on very large projects with multiple designers, provided that the information prepared by these consultants is available to all offerors.

We incorporated many of these recommendations in the proposed rule; however, we also recognize that it is not practical to address every specific instance where the appearance of a

conflict, or an actual conflict of interest may arise. State statutes and practices in this area will govern. The proposed rule provides flexibility by requiring the apparent successful offerors to submit certifications regarding actual or apparent organizational conflicts of interest. The owners will then have the ability to make a determination regarding actual or apparent conflicts and take the appropriate action in accordance with State standards prior to the award of the contract.

Section 636.117 What Conflict of Interest Standards Apply to Individuals Who Serve as Selection Team Members for the Owner?

The ACEC recommended that members of the selection team sign non-disclosure statements, non-conflict-of-interest statements, and agreements not to become an employee, agent, or consultant to the successful designer-builder for the duration of the project.

The proposed rule provides flexibility for States to use their own standards regarding personal conflicts of interest; however, in the absence of such State provisions, the requirements of Title 48 CFR Part 3, Improper Business Practices and Personal Conflicts of Interest, will apply to selection team members.

Section 636.118 Is Team Switching Allowed After Contract Award?

The AASHTO recommended that successful offerors be allowed to add members to their teams after project award with approval of the owner. In addition, the AASHTO said that State rules related to changes in team members or changes in personnel within teams should be explicitly stated by the owner in the project advertisement. On the other hand, the ACEC recommended that the proposed rule prevent the switching of team members after selection. This recommendation was based on the ACEC's belief that if an owner uses qualifications and technical capabilities as a factor in the selection process, then steps need to be taken to prevent the restructuring of the team after project award.

In general, FHWA agrees with the ACEC recommendation. However, some flexibility is appropriate to provide owners with the ability to review team changes or team enhancements on a case-by-case basis. Accordingly, the FHWA believes the proposed rule provides the necessary flexibility.

Section 636.119 How Does This Part Apply to a Project Developed Under a Public-Private Partnership?

Under the proposed rule, the FHWA is making a distinction between: (1) Public-private partnership projects utilizing traditional Federal-aid funding and (2) public-private partnership projects utilizing some form of loan assistance from FHWA.

The FHWA recognizes the significant risks and responsibilities accepted by private entities in a public-private partnership agreement. Private entities must often consider the risks associated with financing, planning, designing, constructing, maintaining and operating public facilities for long time periods. In some situations, the FHWA's participation in such projects may be limited to a loan, loan assistance (guarantee), line of credit or other means of credit assistance. At the end of the loan period, the Federal investment in the project may be zero.

In the first case, the FHWA's procurement policies would apply to any project that utilizes traditional Federal-aid funding. If an owner utilizes traditional Federal-aid funding in the cost of work done under a public-private franchise agreement, then the FHWA procurement policies apply to the procurement of the franchise. If an owner elects to utilize traditional Federal-aid funding in only a portion of the work done under a franchise agreement (such as a design-build contract under the franchise agreement), then the FHWA procurement policies would only apply to that particular contract. The FHWA procurement policies include qualification-based-selection procedures for engineering service contracts, competitive bidding requirements for construction contracts, and the requirements of this part for design-build contracts.

In the second case, FHWA's procurement policies would not apply to work done under a public-private partnership agreement if the only form of FHWA funding is loan assistance. If the procurement process for the public-private partnership was a competitive process, then the public-private entity may select consultants, construction contractors or design-builders in whatever manner it sees fit. However, the public-private entity must comply with State laws and procedures. This policy is consistent with the FHWA's May 10, 1996, guidance memorandum concerning ''Guidance on Section 313(b) of the National Highway System Act Loan Provisions under Section 129(a)(7) of Title 23'' (see *http://www.fhwa.dot.gov/innovativefinance/ifg.htm*).

However, all Federal-aid recipients should be aware that general Title 23, U.S. Code, provisions (environment, right-of-way, etc.) will apply to all FHWA projects regardless of whether traditional Federal-aid funding or loan assistance is used. In addition, any construction or design-build contract which utilizes any form of FHWA funding must comply with the FHWA's requirements for construction contracts in 23 CFR part 635 including Buy America, Davis-Bacon minimum wage rates, and others.

Subparts B through F

These subparts propose additional requirements for the design-build procurement process. As previously noted in the General Comments section, the FHWA is adopting modified FAR provisions from 48 CFR Part 15, Contracting by Negotiation, and 48 CFR 36.3, Two-Phase Design-Build Selection Procedures. The industry representatives at the pre-rule workshop meeting did not voice particular concerns regarding the individual requirements in these subparts. However, the representatives did provide general comments regarding the design-build procurement process.

The AASHTO believes that the procurement process for design-build projects should be left to each STD's discretion. This will allow each State to adapt a procurement system to their needs and their legislative authority. In addition, the AASHTO believes that the selection criteria and award formulas should clearly be communicated to offerors in the RFP document.

The ACEC recommended that the FHWA develop rules and regulations for the design-build procurement process. The process should be flexible and allow the owners to select an appropriate procurement vehicle for the size and complexity of the project. However, the process should maintain a system of checks and balances to guarantee the integrity of the selection process. The ACEC believes that the following steps will assist in maintaining integrity:

(1) Develop specific judging rules and a fully pre-defined point award system that is specified in the Request for Qualifications (RFQ) and/or RFP documents.

(2) Place significant weight on qualifications and technical approach. The cost weight may vary from project to project; however, it should not be over-emphasized at the expense of other important criteria.

(3) Assign knowledgeable personnel to the selection team. Enforce integrity and conflict-of-interest standards to maintain a separation of interests between the owner and industry representatives.

(4) Require separate qualitative and cost proposal submissions. Do not open cost proposals until after the completion and publication of the qualitative scoring.

In addition, the ACEC recommended that the rule not give preferential treatment to a firm based on its size during the selection process.

The AGC indicated that the FHWA should define the specific procurement procedures that States would have to follow in the proposed rule. They believe STDs should have some administrative flexibility in developing their own procedures to meet State and local requirements. According to the AGC, prequalification is a necessary element in the design-build procurement process. The AGC supports the use of the two-step selection process. Costs must be a major factor in the selection process. The separate submission and evaluation of cost and technical proposals should help to minimize subjectivity. The selection criteria, and their relative weights, must clearly be presented to all potential offerors. The AGC believes that best-and-final-offer (BAFO) negotiation procedures should be prohibited in the regulation.

The ARTBA strongly believes that public owners should have the maximum flexibility in determining procurement methods. While the ARTBA recognized the FHWA's duty to ensure the appropriate expenditure of Federal tax dollars, it hoped that the FHWA would minimize Federal control and bureaucratic interference in procurement. At the same time the ARTBA expressed the need for a fair, equitable, and consistent procurement process which is free from the elements of subjectivity and favoritism. The ARTBA suggested several ''guiding principles'' which State and local units of government should consider if they elect to use design-build. These include the following:

(1) Use a two-step procurement. In the first step, prequalify offerors based on well-defined, objective, measurable criteria relevant to the project's size, value, duration, technical features, and complexity;

(2) Clearly communicate the prequalification criteria (and relative weights) in the solicitation;

(3) Owners should prequalify, but should not develop a short list of the most qualified firms. Anyone who is prequalified should be able to submit a proposal;

(4) Proposal criteria should be as objective as possible; and

(5) Proposal cost should be the most significant factor in the final selection.

The DBIA recommended that the regulations be structured to provide owners with maximum flexibility in structuring their procurement procedures and contracts. It further suggested that the FHWA should not try to impose its ideas regarding best contracting practices on State and local agencies. The FHWA should limit the proposed rule to addressing the TEA–21 requirements and clarifying how certain existing rules will apply in the context of design-build. The DBIA suggested that the FHWA produce an advisory guideline to assist the States in making procurement and contracting decisions. In contrast to the AGC and the ARTBA, the DBIA stated that low bid is the least desirable way to select a design-builder. The DBIA recommends best-value selections. However, the DBIA stated that if an owner requires a low bid selection system, then the prequalification process must be stringent.

The FHWA weighed the wide range of recommendations provided by the associations concerning procurement issues. Some of the recommendations appear to be diametrically opposed. We considered individual comments and weighed them in relation to the overall goals of maintaining flexibility and establishing a model for the use of design-build in each State. In the final analysis, we elected to allow flexibility to the maximum extent practical and adopt modified FAR provisions for design-build and competitive acquisition. This will establish an equitable framework that has been tested by the courts for the use of design-build contracting in the Federal-aid highway program.

Part 637—Subpart B—Quality Assurance Procedures for Highway Construction

The AASHTO said that owner oversight should be sufficient to certify that the project meets the owner's quality control/quality assurance (QC/QA) plan, as well as any associated Federal regulations. It was recommended that the design-builder furnish a QC/QA plan for the owner's approval. The AGC stated that the proposed rule should require owners to define oversight needs in the RFP. The AGC believes that the successful design-build team should have an approved QC/QA program and should do the majority of the acceptance testing and inspection.

The FHWA recognizes the STD's responsibility to ensure that the final product meets contractual requirements. We also recognize that the design-build contracting method allows for risk allocation strategies which are not typical for traditional design-bid-build contracts. Therefore, it is appropriate for STDs to have the flexibility to require alternate contractual methods for oversight, acceptance procedures and verification testing. For this reason, we have expanded the language in Subpart B, Quality Assurance Procedures for Construction, to include alternate contractual methods such as warranties and operational requirements. However, the concept of STD responsibility for quality assurance procedures remains the same as for traditional design-bid-build projects. The provisions of § 637.205(d) requiring verification sampling and testing by the STD, or its agent, are maintained for design-build projects. The States should use their own discretion in listing oversight and acceptance testing procedures in the RFP document.

Part 710—Right-of-Way; Subpart C—Project Development

The AASHTO stated that the determination of who should have the responsibility for dealing with right-of-way acquisition issues should be left to the discretion of the STD. Some STDs, however, may believe that it is in the public interest to delegate this responsibility to the design-builder. The industry associations, on the other hand, urged caution or recommended that the STDs keep such responsibility. The ACEC stated that it is usually advantageous for the STDs to perform right-of-way acquisition prior to the notice-to-proceed for the design-build project; however, there may be certain cases where it is appropriate for the design-builder to carry this responsibility to promote innovation and cost-effective design alternatives. The ACEC stated that the RFP document should clearly address all responsibility issues concerning right-of-way acquisition. The AGC, on the other hand, stated that right-of-way acquisition should be the responsibility of the STDs.

The FHWA recognizes that there are many and varied concerns regarding responsibility and risk allocation for right-of-way issues. We have elected to provide as much flexibility as possible to the STDs who have the ultimate responsibility for right-of-way acquisition and ensuring compliance with the Uniform Relocation Assistance

and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, *et seq.*). Thus, this proposed rule would provide this flexibility by requiring that certain responsibility allocation issues be clarified in the RFP document.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date shown above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address. Comments received after the comment closing date will be filed in the FHWA docket identified above and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment closing period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after the close of the comment period.

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

The FHWA has determined preliminarily that this action would be a significant regulatory action within the meaning of Executive Order 12866, and within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. The Office of Management and Budget has reviewed this document under E.O. 12866. The FHWA anticipates that the economic impact of this rulemaking would be minimal. However, this rule is considered to be significant because of the substantial State and industry interest in the design-build contracting technique.

The FHWA anticipates that the proposed rule would not adversely affect, in a material way, any sector of the economy. However, at the present time the FHWA does not have sufficient data to make a conclusive statement regarding the economic impacts. Interested parties are invited to comment on the anticipated economic impact. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. This rulemaking merely allows the STDs to utilize the design-build contracting technique—a contracting method that has only been used on an experimental basis to date in the Federal-aid highway program. The proposed rule would not affect the total Federal funding available to the STDs under the Federal-aid highway program. Therefore, it is anticipated that an increased use of design-build delivery method will not yield significant economic impacts to the Federal-aid highway program. Consequently, a full regulatory evaluation is not required.

The increased usage of the design-build contracting method may result in certain efficiencies in the cost and/or time it normally takes to deliver a transportation project. However, as stated above, the FHWA presently does not have sufficient data to make a conclusive statement regarding economic impacts.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities and has preliminarily determined that the proposed action would not have a significant economic impact on a substantial number of small entities. However, we invite comment on this subject.

By its very nature, design-build contracting is best suited to large transportation projects. However, several STDs such as Pennsylvania, Ohio and Michigan have successfully completed several relatively small design-build contracts (less than $5 million) under SEP–14. Approximately 50 percent of the projects approved under SEP–14 have been less than $5 million. We expect that this trend will continue after the final rule is enacted.

Design-build contracts will present subcontracting opportunities which are similar to or greater than those available under design-bid-build contracts. In many cases, design-build contractors will subcontract for design services. Under the traditional design-bid-build system, owners typically prepare a design with their own staff or will contract with a design consultant for this work. Based on data provided by the Pennsylvania Department of Transportation (PennDOT), the average subcontracting amount for design-build contracts compares favorably with the average subcontracting amount for design-bid-build projects in the same contract size range. While the number of PennDOT completed design-build projects is small, this preliminary data (shown in Table 1) shows that there are comparable subcontracting opportunities for relatively small design-build projects.

TABLE 1

PennDOT projects	Design-Build		Design-Bid-Build	
	Number of projects	Subcontracting percentage	Number of projects	Subcontracting percentage
Contract Size:				
$0–5 million	4	20	541	29
$5–10 million	1	39	21	29
$10–20 million	0	.....	13	30
>$20 million	0	.....	10	40

Large design-build contracts will present significant subcontracting opportunities for firms of all sizes. Table 2 illustrates the subcontracting opportunities which have been associated with medium to large-sized highway design-build contracts.

TABLE 2

Project	Owner	Contract size (million)	Subcontracting percentages
Eastern Toll Road	Transportation Corridors Agency, CA	$767	39

TABLE 2—Continued

Project	Owner	Contract size (million)	Subcontracting percentages
San Joaquin Hills Toll Road	Transportation Corridors Agency, CA	799.7	41
I–15 Reconstruction	Utah DOT	1,318	54
I–17 Reconstruction	Arizona DOT	79.7	33
E–470 Segments I and II	E–470 Public Highway Authority	323.6	90
Southern Connector	South Carolina DOT	106.4	87
Conway Bypass	South Carolina DOT	386.0	89

Thus, from the data available to the FHWA, it appears that the subcontracting opportunities for small entities will be similar under both design-build and design-bid-build contracts.

To offset potential adverse impacts on small entities, the proposed rule would eliminate the FHWA's existing requirement for the prime contractor to perform 30 percent of all contract work, less specialty items (see § 635.116). This should provide greater flexibility for STDs in administering design-build contracts. For design-builders, it will remove potential barriers regarding the choice of subcontractors, and most important, it will provide greater subcontracting opportunities for firms of all sizes. For these reasons and because this proposed rule is directed to the States and directly affects the STDs, which are not considered small entities for the purposes of the Regulatory Flexibility Act, the FHWA is able to preliminarily certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. (2 U.S.C. 1531 *et seq.*). This rulemaking proposes to allow STDs to use a contracting method which has only been used in the Federal-aid highway program on an experimental basis to date. There is no requirement for a State to use the design-build contracting technique. It is strictly an optional contracting method. Therefore, this proposed rule is not considered an unfunded mandate.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this action would not have sufficient federalism implications to warrant the preparation of a Federal assessment. Nothing in this document directly preempts any State law or regulation or affects the States' ability to discharge traditional State governmental functions. Section 1307 of the TEA–21 directs the FHWA to develop regulations which will: (1) Identify Secretary's approval criteria for design-build contracts, and (2) establish procedures for obtaining FHWA's approval for design-build contracts. Throughout the proposed regulation there is an effort to give the STDs flexibility in deciding where to appropriately use design-build contracting while keeping administrative burdens to a minimum.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the proposed rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. The proposed rule does not address issues which are related to tribal operations. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

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.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

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

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has reviewed this proposal and determined that it does not contain collection of information requirements for the purposes of the PRA.

Since 1990 the FHWA has been allowing the STDs to evaluate design-build contracting on an experimental basis through Special Experimental Project No. 14 (SEP–14). To receive the FHWA's approval, STDs were requested to prepare experimental project work plans and evaluation reports for all design-build projects.

Under the proposed rule, the STDs will no longer be required to develop workplans or evaluation reports for ''qualified projects.'' However, because of the ''qualified project'' definition in section 1307 of TEA–21, the FHWA will continue to approve ''non-qualified'' design-build projects under SEP–14. Therefore, a SEP–14 workplan and evaluation will continue to be necessary for these projects. The evaluation reports will document the lessons

learned through design-build contracting and this information will be shared with others in the highway industry. The collection of SEP–14 information does not entail the reporting of information in response to identical questions. The SEP–14 design-build evaluation reports do not involve answering specific questions; they address issues relating to competitive acquisition. Each is a one of a kind document which relates to the lessons learned on a particular project.

We invite comments on this analysis.

National Environmental Policy Act

The agency has analyzed this proposed action for the purposes of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and has preliminarily determined that this proposed action would not have any effect on the quality of the environment. Design-build projects must comply with NEPA requirements and the proposed rule includes guidance concerning compliance with NEPA in relation to the release of the Request for Proposals document.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this proposed action with the Unified Agenda.

List of Subjects

23 CFR Part 627

Government procurement, Grant programs-transportation, Highways and roads.

23 CFR Part 635

Grant programs-transportation, Highways and roads, Reporting and recordkeeping requirements.

23 CFR Part 636

Design-build, Grant programs-transportation, Highways and roads.

23 CFR Part 637

Construction inspection and approval; Highways and roads.

23 CFR 710

Grant programs-transportation, Highway and roads, Real property acquisition, Rights-of-way, Reporting and recordkeeping requirements.

Issued on: October 12, 2001.

Mary E. Peters,

Administrator.

For reasons set forth in the preamble, the FHWA proposes to amend Chapter I of title 23, Code of Federal Regulations, by adding part 636 and by revising parts 627, 635, 637 and 710 as set forth below:

PART 627—VALUE ENGINEERING

1. Revise the authority citation for part 627 to read as follows:

Authority: 23 U.S.C. 106(d), 106(f), 112(b), 302, 307, and 315; 49 CFR 18.

2. In part 627 revise all references to ''State highway agencies'' to read ''State transportation departments''; and revise the acronyms ''SHA'' and ''SHAs'' to read ''STD'' and ''STDs'', respectively.

3. In § 627.5, add paragraph (e) to read as follows:

§ 627.5 General principles and procedures.

* * * * *

(e) In the case of a Federal-aid design-build project meeting the project criteria in 23 CFR 627.1(a), the STDs shall fulfill the value engineering requirements by:

(1) Performing their own value engineering analysis of the concepts in the Request for Proposals document prior to the initiation of the design-build procurement process; or

(2) Requiring a value engineering analysis at other key points in the project development process. Value engineering reviews are generally not recommended as part of the design-build proposal process. At the STD's discretion, value engineering change proposal clauses may be used in design-build contracts.

PART 635—CONSTRUCTION AND MAINTENANCE

4. Revise the authority citation for part 635 to read as follows:

Authority: 23 U.S.C. 101 (note), 109, 112, 113, 114, 116, 119, 128, and 315; 31 U.S.C. 6505; 42 U.S.C. 3334, 4601 *et seq.*; sec. 1041 (a), Pub. L. 102–240, 105 Stat. 1914; 23 CFR 1.32; 49 CFR 1.48(b).

5. In part 635 revise all references to ''State highway agencies'' to read ''State transportation departments''; and revise the acronyms ''SHA'' and ''SHAs'' to read ''STD'' and ''STDs'', respectively.

6. Amend § 635.102 by placing all definitions in alphabetical order, removing the definition of ''certification acceptance,'' and by adding the definition of ''design-build project'' to read as follows:

§ 635.102 Definitions.

* * * * *

Design-build project means a project which utilizes a single contract to provide for design and construction.

* * * * *

7. Amend § 635.104 by adding paragraph (c) to read as follows:

§ 635.104 Method of construction.

* * * * *

(c) In the case of a design-build project, the requirements of part 636 and the appropriate provisions pertaining to design-build contracting in this part will apply.

8. Revise § 635.107 to read as follows:

§ 635.107 Participation by disadvantaged business enterprises.

(a) The STD shall schedule contract lettings in a balanced program providing contracts of such size and character as to assure an opportunity for all sizes of contracting organizations to compete. In accordance with Title VI of the Civil Rights Act of 1964, subsequent Federal-aid Highway Acts, and 49 CFR part 26, the STD shall ensure equal opportunity for disadvantaged business enterprises (DBEs) participating in the highway construction program.

(b) In the case of a design-build project funded with title 23 funds, the requirements of 49 CFR part 26 and the following provisions apply.

(1) The STDs may establish specific DBE goals in the request for proposal document, however, offerors do not have to furnish the information required by 49 CFR 26.53(b)(2) prior to the award of contract. The STDs may determine when this information must be submitted.

(2) If a DBE contract goal is established, the STD must require offerors to make a commitment to meet the goal or provide good faith efforts, as described in 49 CFR 26.53.

(3) During the proposal evaluation process, the STD will make a fair and reasonable judgment whether a proposer, that did not meet the goal, made adequate good faith efforts as described in 49 CFR 26.53.

(4) During the proposal evaluation process, DBE commitments above the contractual requirements must not be used as a proposal evaluation factor in determining the successful offeror.

(5) The STD must maintain oversight of the design-builder's DBE commitments during the project to ensure that contract requirements are met.

9. Amend § 635.109 by adding paragraph (c) to read as follows:

§ 635.109 Standardized changed condition clauses.

* * * * *

(c) In the case of a design-build project, only the requirements of section (a)(2) of this section are applicable. However, STDs may consider using ''differing site condition clauses'' and ''significant changes in the character of work clauses'' which are appropriate for the risk and responsibilities that are shared with the design-builder.

10. Amend § 635.110 by adding paragraph (f) to read as follows:

§ 635.110 Licensing and qualification of contractors.

* * * * *

(f) In the case of a design-build project, the STDs may use their own bonding, insurance, licensing, qualification or prequalification procedure for any phase of design-build procurement.

(1) The STDs may not impose statutory or administrative requirements which provide an in-State or local geographical preference in the solicitation, licensing, qualification, pre-qualification, short listing or selection process. The geographic location of a firm's office may not be a selection criteria. However, the STDs may require the successful design-builder to establish a local office after the award of contract.

(2) If required by State statute, local statute, or administrative policy, the STDs may require prequalification for construction contractors. The STDs may require offerors to demonstrate the ability of their engineering staff to become licensed in that State as a condition of responsiveness; however, licensing procedures may not serve as a barrier for the consideration of otherwise responsive proposals. The STDs may require compliance with State licensing practices as a condition of contract award.

11. Amend § 635.112 by revising the section heading and by adding paragraph (i) to read as follows:

§ 635.112 Advertising for bids and proposals.

* * * * *

(i) In the case of a design-build project, the requirements of this section are modified by the following:

(1) The FHWA Division Administrator's approval of the Request for Proposals document will constitute the FHWA's project authorization and the FHWA's approval of the STD's request to release the document. This approval will carry the same significance as plan, specification and estimate approval on a design-bid-build Federal-aid project.

(2) The STD may decide the appropriate solicitation schedule for all design-build requests. This includes all project advertising, the release of the Request for Qualifications document, the release of the Request for Proposals document and all deadlines for the receipt of qualification statements and proposals. Typical advertising periods range from six to ten weeks and can be longer for large, complicated projects.

(3) The STD shall obtain the approval of the Division Administrator prior to issuing addenda which result in major changes to the Request for Proposals document. Minor addenda need not receive prior approval but may be identified by the STD at the time of or prior to requesting the FHWA's concurrence in award. The STD shall provide assurance that all offerors have received all issued addenda.

12. Amend § 635.113 by adding paragraph (c) to read as follows:

§ 635.113 Bid opening and bid tabulations.

* * * * *

(c) In the case of a design-build project, the requirements of this section are modified by the following:

(1) All proposals received shall be opened and reviewed in accordance with the terms of the solicitation. The STD shall use its own procedures for the following:

(i) The process of handling proposals and information;

(ii) The review and evaluation of proposals;

(iii) The submission, modification, revision and withdrawal of proposals; and

(iv) The announcement of the successful offeror.

(2) The STD shall submit a tabulation of proposal costs to the FHWA Division Administrator. The tabulation of price proposal information may include detailed pricing information when available or lump sum price information if itemized costs are not used.

13. Amend § 635.114 by adding paragraph (k) to read as follows:

§ 635.114 Award of contract and concurrence in award.

* * * * *

(k) In the case of a design-build project, the requirements of this section are modified by the following sentence: Design-build contracts shall be awarded on the basis of the criteria specified in the Request for Proposals document. See Part 636, Design-build Contracting, for details.

14. Amend § 635.116 by adding paragraph (d) to read as follows:

§ 635.116 Subcontracting and contractor responsibilities.

* * * * *

(d) In the case of a design-build project, the requirements of this section are modified by the following:

(1) The provisions of paragraph (a) of this section are not applicable to design-build contracts;

(2) At their discretion, the STDs may establish a minimum percentage of work which must be done by the design-builder;

(3) No procedure, requirement or preference shall be imposed which prescribes minimum subcontracting requirements or goals (other than those necessary to meet the Disadvantaged Business Enterprise program requirements of 49 CFR part 26).

15. Amend § 635.122 by adding paragraph (c) to read as follows:

§ 635.122 Participation in progress payments.

* * * * *

(c) In the case of a design-build project, the STD shall define its procedures for making progress payments on lump sum contracts in the Request for Proposal document.

16. Amend § 635.309 by adding paragraph (p) to read as follows:

§ 635.309 Authorization.

* * * * *

(p) In the case of a design-build project, the requirements of this section are supplemented with the following:

(1) The FHWA's project authorization (authorization to advertise or release the Request for Proposals document) will not be issued until the following conditions have been met:

(i) All projects must conform with the statewide and metropolitan transportation planning requirements (23 CFR part 450).

(ii) All projects in air quality nonattainment and maintenance areas must meet all transportation conformity requirements (40 CFR parts 51 and 93).

(iii) The NEPA review process has been concluded. (see § 636.109).

(iv) The Request for Proposals document has been approved.

(v) A statement is received from the STD that either all right-of-way, utility, and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the design-builder's construction schedule.

(vi) If the STD elects to include right-of-way, utility, and/or railroad services as part of the design-builder's scope of work, then the Request for Proposals document must include:

(A) A statement concerning scope and current status of the required services, and

(B) A statement which requires compliance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and 23 CFR part 710.

(2) During a conformity lapse, a design-build project (including right-of-way acquisition activities) may continue if the FHWA authorized the design-build contract prior to the lapse and the project met transportation conformity requirements (40 CFR parts 51 and 93); whether the right-of-way authorization comes before the design-build authorization, or is part of such an authorization.

(3) Changes to the design-build project concept and scope may require a modification of the transportation plan and transportation improvement program. The project sponsor must comply with the metropolitan and statewide transportation planning requirements in 23 CFR part 450 and provide appropriate approval notification to the design-builder for such changes.

17. Amend § 635.411 by adding paragraph (f) to read as follows:

§ 635.411 Material or product selection.

* * * * *

(f) In the case of a design-build project, the requirements of this section are supplemented with the following:

Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the Request for Proposals document unless the conditions of paragraph (a) of this section are applicable.

18. Add Part 636 to read as follows:

PART 636—DESIGN-BUILD CONTRACTING

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636.608 What issues must not be discussed at postaward debriefings?

Authority: Sec. 1307 of Pub. L. 105–178, 112 Stat. 107, at 229 (1998); 23 U.S.C. 101, 109, 112, 113, 114, 115, 119, 128, and 315; 49 CFR 1.48(b).

Subpart A—General

§ 636.101 What does this part do?

This part describes the FHWA's policies and procedures for approving design-build projects financed under title 23, United States Code (U.S.C.). This part satisfies the requirement of section 1307(c) of the Transportation Equity Act for the 21st Century (TEA–21), enacted on June 9, 1998. The contracting procedures of this part

apply to all design-build project funded under title 23, U.S.C.

§ 636.102 Does this part apply to me?

(a) This part uses a plain language format to make the rule easier for the general public and business community to use. The section headings and text, often in the form of questions and answers, must be read together.

(b) Unless otherwise noted, the pronoun ''you'' means the primary recipient of Federal-aid highway funds, the State Transportation Department (STD). Where the STD has an agreement with a local public agency (or other governmental agency) to administer a Federal-aid design-build project, the term ''you'' will also apply to that contracting agency.

§ 636.103 What are the definitions of terms used in this part?

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. Also, the following definitions are used:

Adjusted low bid means a form of best value selection in which qualitative aspects are scored on a 0 to 100 scale expressed as a decimal; cost is then divided by qualitative score to yield an ''adjusted bid'' or ''cost per quality point.'' Award is made to offeror with the lowest adjusted bid.

Best value selection means any selection process in which proposals contain both cost and qualitative components and award is based upon a combination of cost and qualitative considerations.

Clarifications means a written or oral exchange of information which takes place after the receipt of proposals when award without discussions is contemplated. The purpose of clarifications is to address minor or clerical revisions in a proposal.

Competitive range means a list of the most highly rated proposals based on the initial proposal rankings. It is based on the rating of each proposal against all evaluation criteria.

Communications are exchanges, between the contracting agency and offerors, after receipt of proposals, which lead to the establishment of the competitive range.

Contracting agency means the agency which represents the owner for the design-build project.

Competitive acquisition means an acquisition process which is designed to foster an impartial and comprehensive evaluation of offerors' proposals, leading to the selection of the proposal representing the best value to the contracting agency.

Deficiency means a material failure of a proposal to meet a contracting agency requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

Design-bid-build means the traditional project delivery method where design and construction are sequential steps in the project development process.

Design-build contract means a single contract which provides for design and construction services.

Design-builder means the entity contractually responsible for delivering the project design and construction.

Discussions mean written or oral exchanges that take place after the establishment of the competitive range with the intent of allowing the offeror to revise its proposal.

Fixed price/best design means a form of best value selection in which contract price is established by the owner and stated in the Request for Proposals document. Design proposals and management plan are evaluated and scored, with award going to the firm offering the best qualitative proposal for the established price.

Intelligent Transportation System (ITS) services—means services which provide for the acquisition of technologies or systems of technologies (e.g., computer hardware or software, traffic control devices, communications link, fare payment system, automatic vehicle location system, etc.) that provide or contribute to the provision of one or more ITS user services as defined in the National ITS Architecture.

Modified design-build means a variation of design-build in which the contracting agency furnishes offerors with partially complete plans (generally 30 to 35 percent complete). The design-builders role is generally limited to the completion of the design and construction of the project.

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

Prequalification means the contracting agency's process for determining whether a firm is fundamentally qualified to compete for a certain project or class of projects. The prequalification process may be based on financial, management and other types of qualitative data. Prequalification should be distinguished from short listing.

Price proposal means the price submitted by the offeror to provide the required design and construction services.

Proposal modification means a change made to a proposal before the solicitation closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

Proposal revision means a change to a proposal made after the solicitation closing date, at the request of or as allowed by a contracting officer, as the result of negotiations.

Qualified project means any design-build project with a total estimated cost greater than $50,000,000.00 or an intelligent transportation system project greater than $5,000,000. (23 U.S.C. 112 (b)(3)(C)).

Request for Proposals (RFP) means the document that describes the procurement process, forms the basis for the final proposals and may potentially become an element in the contract.

Request for Qualification (RFQ) means the document issued by the owner in Phase I of the two-phased selection process. It typically describes the project in enough detail to let potential offerors determine if they wish to compete and forms the basis for requesting qualifications submissions from which the most highly qualified firms can be identified.

Single-phase selection process means a procurement process where cost and/or technical proposals are submitted in response to an RFP. Short listing is not used.

Short listing means the narrowing of the field of offerors through the selection of the most qualified offerors who have responded to an RFQ.

Solicitation means a public notification of an owner's need for information, qualifications, or proposals related to identified services.

Stipend means a monetary amount sometimes paid to the most highly qualified unsuccessful offerors.

Technical proposals means that portion of a design-build proposal which contains design factors, layout, aesthetics and specifications for materials.

Tradeoff means a method of source selection which allows you to select the source which represents the best value. This process permits an exchange between cost and non-cost factors and allows you to accept other than the lowest priced proposal.

Two-phase selection process means a procurement process in which the first phase consists of short listing (based on qualifications submitted in response to an RFQ) and the second phase consists

of the submission of cost and technical proposals in response to an RFP.

Weakness means a flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance.

Weighted criteria process means a form of best value selection in which maximum point values are preestablished for qualitative and cost components, and award is based upon high total points earned by the offerors.

§ 636.104 Does this part apply to all Federal-aid design-build projects?

The provisions of this part apply to all Federal-aid design-build projects on the National Highway System (NHS) and non-NHS projects which are located within the highway right-of-way. Projects which are not located within the highway right-of-way, and not linked to a Federal-aid highway project (i.e., the project would not exist without the Federal-aid highway) may utilize State procedures.

§ 636.105 Is the FHWA requiring the use of design-build?

No, the FHWA is neither requiring nor promoting the use of the design-build contracting method. The design-build contracting technique is optional.

§ 636.106 What type of projects may be used with design-build contracting?

You may use the design-build contracting technique for any qualified or non-qualified project which you deem to be appropriate on the basis of project delivery time, cost, construction schedule and/or quality.

§ 636.107 Does the definition of a qualified project limit the use of design-build contracting?

(a) No, the use of the term ''qualified project'' does not limit the use of design-build contracting. It merely determines the FHWA's procedures for approval. The FHWA Division Administrator may approve the design-build method for ''qualified projects'' which meet the requirements of this part.

(b) The FHWA Division Administrator may also approve other design-build projects (which do not meet the ''qualified projects'' definition) by using Special Experimental Projects No. 14 (SEP–14), ''Innovative Contracting Practices,'' [1] provided the project meets the requirements of this part. Projects which do not meet the requirements of this part must be submitted to the FHWA Headquarter's for concept approval.

§ 636.108 How does the definition of a qualified project apply to ITS projects?

For the purpose of this rule, a Federal-aid ITS design-build project meets the criteria of a ''qualified project'' if:

(a) A majority of the scope of services provides ITS services (at least 50 percent of the scope of work is related to ITS services); and

(b) The estimated contract value exceeds $5 million.

§ 636.109 How does the NEPA review process relate to the design-build procurement process?

In terms of the design-build procurement process:

(a) The RFQ solicitation may be released prior to the conclusion of the NEPA review process as long as the RFQ solicitation informs proposers of the general status of the NEPA process.

(b) The RFP should not be released prior to the conclusion of the NEPA process. The NEPA review process is concluded with either a Categorical Exclusion classification, an approved Finding of No Significant Impact, or an approved Record of Decision as defined in 23 CFR 771.113(a).

(c) The RFP must address how environmental commitments and mitigation measures identified during the NEPA process will be implemented.

§ 636.110 What procedures may be used for solicitations and receipt of proposals?

You may use your own procedures for the solicitation and receipt of proposals and information including the following:

(a) Exchanges with industry before receipt of proposals;

(b) RFQ, RFP and contract format;

(c) Solicitation schedules;

(d) Lists of forms, documents, exhibits, and other attachments;

(e) Representations and instructions;

(f) Advertisement and amendments;

(g) Handling proposals and information; and

(h) Submission, modification, revisions and withdrawal of proposals.

§ 636.111 Can oral presentations be used during the procurement process?

(a) Yes, the use of oral presentations as a substitute for portions of a written proposal can be effective in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process, however, you must comply with the appropriate State procurement integrity standards.

(b) Oral presentations may substitute for, or augment, written information. You must maintain a record of oral presentations to document what information you relied upon in making the source selection decision. You may decide the appropriate method and level of detail for the record (e.g., videotaping, audio tape recording, written record, contracting agency notes, copies of offeror briefing slides or presentation notes). A copy of the record should be placed in the contract file and may be provided to offerors upon request.

§ 636.112 May stipends be used?

At your discretion, you may elect to pay a stipend to the most highly ranked unsuccessful offerors who have submitted responsive proposals. The decision to do so should be based on your analysis of the estimated proposal development costs and the anticipated degree of competition during the procurement process.

§ 636.113 Is the stipend amount eligible for Federal participation?

(a) Yes, stipends are eligible for Federal-aid participation. Stipends are recommended on large projects where there is substantial opportunity for innovation and the cost of submitting a proposal is significant. On such projects, stipends are used to:

(1) Encourage competition;

(2) Compensate unsuccessful offerors for a portion of their costs (usually one-third to one-half of the estimated proposal development cost); and

(3) Ensure that smaller companies are not put at a competitive disadvantage.

(b) If provided by State law, you may retain the right to use ideas from unsuccessful offerors if they accept stipends. If stipends are used, the RFP should describe the process for distributing the stipend to qualifying offerors.

§ 636.114 What factors should be considered in risk allocation?

(a) You may consider, identify, and allocate the risks in the RFP document and define these risks in the contract. Risk should be allocated with consideration given to the party who is in the best position to manage and control a given risk.

(b) Risk allocation will vary according to the type of project and location, however, the following factors should be considered:

(1) Governmental risks, including the potential for delays, modifications,

[1] Information concerning Special Experimental Project No. 14 (SEP–14), ''Innovative Contracting Practices,'' is available on FHWA's home page: *http://www.fhwa.dot.gov*. Additional information may be obtained from the FHWA Division Administrator in each State.

withdrawal, scope changes, or additions that result from multi-level Federal, State, and local participation and sponsorship;

(2) Regulatory compliance risks, including environmental and third-party issues, such as permitting, railroad, and utility company risks;

(3) Construction phase risks, including differing site conditions, traffic control, interim drainage, public access, weather issues, and schedule;

(4) Post-construction risks, including public liability and meeting stipulated performance standards; and

(5) Right-of-way risks including acquisition costs, appraisals, relocation delays, condemnation proceedings, including court costs and others.

§ 636.115 May I meet with industry to gather information concerning the appropriate risk allocation strategies?

(a) Yes, information exchange at an early project stage is encouraged if it facilitates your understanding of the capabilities of potential offerors. However, any exchange of information must be consistent with State procurement integrity requirements. Interested parties include potential offerors, end users, acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition.

(b) The purpose of exchanging information is to improve the understanding of your requirements and industry capabilities, thereby allowing potential offerors to judge whether or how they can satisfy your requirements, and enhancing your ability to obtain quality supplies and services, including construction, at reasonable prices, and increase efficiency in proposal preparation, proposal evaluation, negotiation, and contract award.

(c) An early exchange of information can identify and resolve concerns regarding the acquisition strategy, including proposed contract type, terms and conditions, and acquisition planning schedules. This also includes the feasibility of the requirement, including performance requirements, statements of work, and data requirements; the suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information; the availability of reference documents; and any other industry concerns or questions. Some techniques to promote early exchanges of information are as follows:

(1) Industry or small business conferences;

(2) Public hearings;

(3) Market research;

(4) One-on-one meetings with potential offerors (any meetings that are substantially involved with potential contract terms and conditions should include the contracting officer; also see paragraph (e) of this section regarding restrictions on disclosure of information);

(5) Presolicitation notices;

(6) Draft RFPs;

(7) Request for Information (RFI) ;

(8) Presolicitation or preproposal conferences; and

(9) Site visits.

(d) RFIs may be used when you do not intend to award a contract, but want to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted to form a binding contract. There is no required format for an RFI.

(e) When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, that information shall be made available to the public as soon as practicable, but no later than the next general release of information, in order to avoid creating an unfair competitive advantage. Information provided to a particular offeror in response to that offeror's request shall not be disclosed if doing so would reveal the potential offeror's confidential business strategy. When a presolicitation or preproposal conference is conducted, materials distributed at the conference should be made available to all potential offerors, upon request.

§ 636.116 What organizational conflict of interest requirements apply to design-build projects?

(a) State statutes or policies concerning organizational conflict of interest should be specified or referenced in the design-build RFQ or RFP document as well as any contract for engineering services, inspection or technical support in the administration of the design-build contract. All design-build solicitations should address the following situations as appropriate:

(1) Consultants and/or sub-consultants who assist the owner in the preparation of a RFP document will not be allowed to participate as an offeror or join a team proposing on that project. However, a State may determine there is not an organizational conflict of interest for a sub-consultant where:

(i) The sub-consultant or registered design professional provides only preliminary design services, or

(ii) The sub-consultant has had no involvement with this design-build procurement process, or

(iii) Where all information generated by the sub-consultant is provided to all offerors.

(2) All solicitations for design-build contracts, including related contracts for inspection, administration or auditing services, must include a provision which:

(i) Directs offerors attention to this subpart;

(ii) States the nature of the potential conflict as seen by the owner;

(iii) States the nature of the proposed restraint or restrictions (and duration) upon future contracting activities, if appropriate;

(iv) Depending on the nature of the acquisition, states whether or not the terms of any proposed clause and the application of this subpart to the contract are subject to negotiation; and

(v) Requires the apparent successful offeror to provide information concerning potential organizational conflicts of interest prior to the award of contract. The apparent successful offerors must disclose all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest. Such firms must state how their interests, or those of their chief executives, directors, key project personnel, or any proposed consultant, contractor or subcontractor may result, or could be viewed as, an organizational conflict of interest. The information may be in the form of a disclosure statement or a certification.

(3) Based upon a review of the information submitted, the owner should make a written determination of whether the offeror's interests create an actual or potential organizational conflict of interest and identify any actions that must be taken to avoid, neutralize, or mitigate such conflict. The owner should award the contract to the apparent successful offeror unless an organizational conflict of interest is determined to exist that cannot be avoided, neutralized, or mitigated.

(b) The organizational conflict of interest provisions in this subpart provide minimum standards for STDs to identify, mitigate or eliminate apparent or actual organizational conflicts of interest. To the extent that State-developed organizational conflict of interest standards are more stringent than that contained in the rule, the State standards prevail.

§ 636.117 What conflict of interest standards apply to individuals who serve as selection team members for the owner?

State laws and procedures governing improper business practices and personal conflicts of interest will apply

to the owner's selection team members. In the absence of such State provisions, the requirements of 48 CFR Part 3, Improper Business Practices and Personal Conflicts of Interest, will apply to selection team members.

§ 636.118 Is team switching allowed after contract award?

Where the offeror's qualifications are a major factor in the selection of the successful design-builder, team member switching (adding or switching team members) is discouraged after contract award. However, the owner may use its discretion in reviewing team changes or team enhancement requests on a case-by-case basis. Specific project rules related to changes in team members or changes in personnel within teams should be explicitly stated by the STD in all project solicitations.

§ 636.119 How does this part apply to a project developed under a public-private partnership?

(a) When an owner utilizes traditional Federal-aid funds for work done under a public-private partnership agreement (or a portion of the work under a public-private agreement), the provisions of 23 U.S.C. 112 apply to the contracts funded with Federal-aid funds. In such instances, the procurement of engineering service contracts, construction contracts and design-build contracts must follow the appropriate Federal-aid requirements (Brooks Architect-Engineers Act, 40 U.S.C. 541 *et seq;* competitive bidding procedures for construction contracts, 23 U.S.C. 112; and the design-build requirements of this part). If an owner is only requesting traditional Federal-aid funding for one particular contract under a franchise agreement, then Federal-aid procurement procedures will only apply to the work under that particular Federal-aid contract and not to the selection of the public-private entity.

(b) For projects developed under public-private partnership agreements where the only FHWA funding is in the form of a loan, a loan guarantee, a line of credit, or some other form of loan assistance, the requirements of this part do not apply. In such cases, the public-private entity may select consultants, construction contractors or design-builders in whatever manner it sees fit provided:

(1) The procurement process for the selection of the public-private entity is a competitive process; and

(2) The selection process follows State laws and procedures.

(c) Except as noted above, the State must ensure such public-private partnership projects comply with all other 23 U. S. Code provisions, regardless of the form of the FHWA funding (traditional Federal-aid funding or loan assistance). This includes compliance with all FHWA policies such as environmental and right-of-way requirements and compliance with construction contracting requirements, such as Buy America, Davis-Bacon minimum wage rate requirements, etc., for federally funded construction or design-build contracts under the franchise agreement.

Subpart B—Selection Procedures, Award Criteria

§ 636.201 What selection procedures and award criteria may be used?

You should consider using two-phase selection procedures for all design-build projects. However, if you do not believe two-phase selection procedures are appropriate for your project (based on the criteria in § 636.202), you may use a single phase selection procedure or the modified-design-build contracting method. The following procedures are available:

Selection procedure	Criteria for using a selection procedure	Award criteria options
(a) Two-Phase Selection Procedures (RFQ followed by RFP).	§ 636.202	Lowest Cost, Adjusted low-bid (cost per quality point), meets criteria/low bid, weighted criteria process, fixed price/best design, best value, tradeoff.
(b) Single Phase (RFP)	Project not meeting the criteria in § 636.202	All of the award criteria in item (a) above.
(c) Modified Design-Build (may be one or two phases).	Projects with relatively simple scope.[2]	Lowest price technically acceptable.

[2] The modified design-build contracting technique, as defined above, should be reserved for projects which are relatively simple in scope (such as pavement resurfacing, simple pavement rehabilitation, or other projects) where the design-builder's role is primarily limited to completing the design and constructing the project.

§ 636.202 When are two-phase design-build selection procedures appropriate?

You may consider the following criteria in deciding whether two-phase selection procedures are appropriate. A negative response may indicate that two-phase selection procedures are not appropriate.

(a) Are three or more offers anticipated?

(b) Will offerors be expected to perform substantial design work before developing price or cost proposals?

(c) Will offerors incur a substantial expense in preparing proposals?

(d) Have you identified and analyzed other contributing factors, including:

(1) The extent to which you have defined the project requirements?

(2) The time constraints for delivery of the project?

(3) The capability and experience of potential contractors?

(4) Your capability to manage the two-phase selection process?

(5) Other criteria that you may consider appropriate?

§ 636.203 What are the elements of two-phase selection procedures for competitive proposals?

The first phase consists of short listing based on a RFQ. The second phase consists of the receipt and evaluation of cost and technical proposals in response to a RFP.

§ 636.204 What items may be included in a phase-one solicitation?

You may consider including the following items in any phase-one solicitation:

(a) The scope of work;

(b) The phase-one evaluation factors and their relative weights, including:

(1) Technical approach (but not detailed design or technical information);

(2) Technical qualifications, such as—

(i) Specialized experience and technical competence;

(ii) Capability to perform (including key personnel); and

(iii) Past performance of the members of the offeror's team (including the architect-engineer and construction members);

(3) Other appropriate factors (excluding cost or price related factors, which are not permitted in phase-one);

(c) Phase-two evaluation factors; and

(d) A statement of the maximum number of offerors that will be short listed to submit phase-two proposals.

§ 636.205 Can past performance be used as an evaluation criteria?

(a) Yes, past performance information is one indicator of an offeror's ability to perform the contract successfully. Past performance information may be used as an evaluation criteria in either phase-one or phase-two solicitations. If you elect to use past performance criteria, the currency and relevance of the information, source of the information, context of the data, and general trends in contractor's performance may be considered.

(b) Describe your approach for evaluating past performance in the solicitation, including your policy for evaluating offerors with no relevant performance history. You should provide offerors an opportunity to identify past or current contracts (including Federal, State, and local government and private) for efforts similar to the current solicitation.

(c) If you elect to request past performance information, the solicitation should also authorize offerors to provide information on problems encountered on the identified contracts and the offeror's corrective actions. You may consider this information, as well as information obtained from any other sources, when evaluating the offeror's past performance. You may use your discretion in determining the relevance of similar past performance information.

(d) The evaluation should take into account past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the current acquisition.

§ 636.206 How do I evaluate offerors who do not have a record of relevant past performance?

In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.

§ 636.207 Is there a limit on short listed firms?

Normally, three to five firms are short listed, however, the maximum number specified shall not exceed five unless you determine, for that particular solicitation, that a number greater than five is in your interest and is consistent with the purposes and objectives of two-phase design-build contracting.

§ 636.208 May I use my existing prequalification procedures with design-build contracts?

Yes, you may use your existing prequalification procedures for either construction or engineering design firms as a supplement to the procedures in this part.

§ 636.209 What items must be included in a phase-two solicitation?

You must include the requirements for technical proposals and price proposals in the phase-two solicitation. All factors and significant subfactors that will affect contract award and their relative importance must be stated clearly in the solicitation. Use your own procedures for the solicitation as long as it complies the requirements of this part.

§ 636.210 What requirements apply to projects which use the modified design-build procedure?

(a) Modified design-build selection procedures (lowest price technically acceptable source selection process) may be used for projects which are relatively simple in scope.

(b) The solicitation must clearly state the following:

(1) The identification of evaluation factors and significant subfactors that establish the requirements of acceptability.

(2) That award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors.

(c) The contracting agency may forgo a short listing process and advertise for the receipt of proposals from all responsible offerors. The contract is then awarded to the lowest responsive bidder.

(d) Tradeoffs are not permitted, however, you may incorporate cost-plus-time bidding procedures (A+B bidding), lane rental, or other cost-based provisions in such contracts.

(e) Proposals are evaluated for acceptability but not ranked using the non-cost/price factors.

(f) Exchanges may occur (see subpart D of this part).

§ 636.211 When and how should tradeoffs be used?

(a) At your discretion, you may consider a tradeoff process when it is desirable to award to other than the lowest priced offeror or other than the highest technically rated offeror.

(b) If you use a tradeoff process, the following apply:

(1) All evaluation factors and significant subfactors that will affect contract award and their relative importance must be clearly stated in the solicitation; and

(2) The solicitation shall also state, at a minimum, whether all evaluation factors other than cost or price, when combined, are—

(i) Significantly less important than cost or price; or

(ii) Approximately equal to cost or price. As a minimum, cost or price must have a weight of at least 50 percent in the award criteria.

§ 636.212 To what extent must tradeoff decisions be documented?

When tradeoffs are performed, the source selection records shall include the following:

(a) An assessment of each offeror's ability to accomplish the technical requirements; and

(b) A summary, matrix, or quantitative ranking, along with appropriate supporting narrative, of each technical proposal using the evaluation factors.

Subpart C—Proposal Evaluation Factors

§ 636.301 How should proposal evaluation factors be selected?

(a) The proposal evaluation factors and significant subfactors should be tailored to the acquisition.

(b) Evaluation factors and significant subfactors should:

(1) Represent the key areas of importance and emphasis to be considered in the source selection decision; and

(2) Support meaningful comparison and discrimination between and among competing proposals.

§ 636.302 Are there any limitations on the selection and use of proposal evaluation factors?

(a) The selection of the evaluation factors, significant subfactors and their relative importance are within your broad discretion subject to the following requirements:

(1) You must evaluate cost or price in every source selection. As a minimum, cost or price must have a weight of at least 50 percent in the award criteria. (Cost is assumed to have a weight of at least 50 percent under the ''adjusted low-bid'' and the ''fixed price/best design'' award criteria.)

(2) You must evaluate the quality of the product or service through consideration of one or more non-cost evaluation factors. These factors may include (but are not limited to) such criteria as:

(i) Compliance with solicitation requirements;

(ii) Completion schedule (contractual incentives and disincentives for early

completion may be used where appropriate); or

(iii) Technical solutions.

(3) At your discretion, you may evaluate past performance and management experience (subject to § 636.303(b)).

(b) All factors and significant subfactors that will affect contract award and their relative importance must be stated clearly in the solicitation.

§ 636.303 May pre-qualification standards be used as proposal evaluation criteria in the RFP?

(a) If you use a prequalification procedure or a two-phase selection procedure to develop a short list of qualified offerors, then pre-qualification criteria should not be included as proposal evaluation criteria.

(b) The proposal evaluation criteria should be limited to the quality, quantity, value and timeliness of the product or service being proposed. However, there may be circumstances where it is appropriate to include prequalification standards as proposal evaluation criteria. Such instances include situations where:

(1) The scope of work involves very specialized technical expertise, and

(2) Where prequalification procedures or two-phase selection procedures are not used (short listing is not performed).

§ 636.304 What process may be used to rate and score proposals?

(a) Proposal evaluation is an assessment of the offeror's proposal and ability to perform the prospective contract successfully. You must evaluate proposals solely on the factors and subfactors specified in the solicitation.

(b) You may conduct evaluations using any rating method or combination of methods including color or adjectival ratings, numerical weights, and ordinal rankings. The relative strengths, deficiencies, significant weaknesses, and risks supporting proposal evaluation must be documented in the contract file.

§ 636.305 Can price information be provided to analysts who are reviewing technical proposals?

Normally, technical and price proposals are reviewed independently by separate evaluation teams. However, there may be occasions where the same experts needed to review the technical proposals are also needed in the review of the price proposals. This may occur where a limited amount of technical expertise is available to review proposals. Price information may be provided to such technical experts in accordance with your procedures.

Subpart D—Exchanges

§ 636.401 What types of information exchange may take place during the procurement process?

Certain types of information exchange may be desirable at different points in the procurement process. The following table summarizes the types of communications that will be discussed in this subpart. These communication methods are optional.

Type of information exchange	When	Purpose	Parties involved
(a) Clarifications	After receipt of proposals	Used when award without discussions contemplated. Used to clarify certain aspects of a proposal (resolve minor errors, clerical errors, obtain additional past performance information, etc.).	Any offeror whose proposal is not clear to the contracting agency.
(b) Communications	After receipt of proposals, prior to the establishment of the competitive range.	Used to address issues which might prevent a proposal from being placed in the competitive range.	Any offeror whose exclusion from, or inclusion in, the competitive range is uncertain. All offerors whose past performance information is the determining factor preventing them from being placed in the competitive range.
(c) Discussions (see Subpart E of this part).	After receipt of proposals and after the determination of the competitive range.	Enhance contracting agency understanding of proposals and offerors understanding of scope of work. Facilitate the evaluation process.	Must be held with all offerors in the competitive range.

§ 636.402 What information may be exchanged with a clarification?

You may wish to clarify any aspect of proposals which would enhance your understanding of an offeror's proposal. This includes such information as an offeror's past performance, or information regarding adverse past performance to which the offeror has not previously had an opportunity to respond. Clarification exchanges are discretionary. They do not have to be held with any specific number of offerors and do not have to address specific issues.

§ 636.403 Can a competitive range be used to limit competition?

If the solicitation notifies offerors that the competitive range can be limited for purposes of efficiency, you may limit the number of proposals to the greatest number that will permit an efficient competition. However, you must provide written notice to any offeror whose proposal is no longer considered to be included in the competitive range. Offerors excluded or otherwise eliminated from the competitive range may request a debriefing. Debriefings may be conducted in accordance with your procedures as long as you comply with the provisions of Subpart F, Notifications and Debriefings.

§ 636.404 After developing a short list, can I still establish a competitive range?

Yes, if you have developed a short list of firms, you may still establish a competitive range. The short list is based on qualifications criteria. The competitive range is based on the rating of technical and price proposals.

§ 636.405 Are communications allowed prior to establishing the competitive range?

Yes, prior to establishing the competitive range, you may conduct communications to:

(a) Enhance your understanding of proposals;

(b) Allow reasonable interpretation of the proposal; or

(c) Facilitate your evaluation process.

§ 636.406 Am I limited in holding communications with certain firms?

Yes, if you establish a competitive range, you must do the following:

(a) Hold communications with offerors whose past performance information is the determining factor preventing them from being placed within the competitive range;

(b) Address adverse past performance information to which an offeror has not had a prior opportunity to respond; and

(c) Hold communications only with those offerors whose exclusion from, or inclusion in, the competitive range is uncertain.

§ 636.407 Can communications be used to cure proposal deficiencies?

(a) No, communications must not be used to:

(1) Cure proposal deficiencies or material omissions;

(2) Materially alter the technical or cost elements of the proposal; and/or

(3) Otherwise revise the proposal.

(b) Communications may be considered in rating proposals for the purpose of establishing the competitive range.

§ 636.408 Can offerors revise their proposals during communications?

(a) No. Communications shall not provide an opportunity for an offeror to revise its proposal, but may address the following:

(1) Ambiguities in the proposal or other concerns (e.g., perceived deficiencies, weaknesses, errors, omissions, or mistakes); and

(2) Information relating to relevant past performance.

(b) Communications must address adverse past performance information to which the offeror has not previously had an opportunity to comment.

Subpart E—Discussions, Proposal Revisions and Source Selection

§ 636.501 What issues may be addressed in discussions?

In a competitive acquisition, discussions may include bargaining. The term bargaining may include: persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.

§ 636.502 Why should I use discussions?

You should use discussions to maximize your ability to obtain the best value, based on the requirements and the evaluation factors set forth in the solicitation.

§ 636.503 Must I notify offerors of my intent to use/not use discussions?

Yes, in competitive acquisitions, the solicitation must notify offerors of your intent. You should either:

(a) Notify offerors that discussions may or may not be held depending on the quality of the proposals received (except clarifications may be used as described in § 636.401). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint; or

(b) Notify offerors of your intention to establish a competitive range and hold discussions.

§ 636.504 If the solicitation indicated my intent was to award contract without discussions, but circumstances change, may I still hold discussions?

Yes, you may still elect to hold discussions when circumstances dictate, as long as the rationale for doing so is documented in the contract file. Such circumstances might include situations where all proposals received have deficiencies, when fair and reasonable prices are not offered, or when the cost or price offered is not affordable.

§ 636.505 Must a contracting agency establish a competitive range if it intends to have discussions with offerors?

Yes, if discussions are held, they must be conducted with all offerors in the competitive range. If you wish to hold discussions and do not formally establish a competitive range, then you must hold discussions with all responsive offerors.

§ 636.506 What issues must be covered in discussions?

(a) Discussions should be tailored to each offeror's proposal. Discussions must cover significant weaknesses, deficiencies, and other aspects of a proposal (such as cost or price, technical approach, past performance, and terms and conditions) that could be altered or explained to enhance materially the proposal's potential for award. You may use your judgment in setting limits for the scope and extent of discussions.

(b) In situations where the solicitation stated that evaluation credit would be given for technical solutions exceeding any mandatory minimums, you may hold discussions regarding increased performance beyond any mandatory minimums, and you may suggest to offerors that have exceeded any mandatory minimums (in ways that are not integral to the design), that their proposals would be more competitive if the excesses were removed and the offered price decreased.

§ 636.507 What subjects are prohibited in discussions, communications and clarifications with offerors?

You may not engage in conduct that:

(a) Favors one offeror over another;

(b) Reveals an offeror's technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror's intellectual property to another offeror;

(c) Reveals an offerors price without that offeror's permission;

(d) Reveals the names of individuals providing reference information about an offeror's past performance; or

(e) Knowingly furnish source selection information which could be in violation of State procurement integrity standards.

§ 636.508 Can price or cost be an issue in discussions?

You may inform an offeror that its price is considered to be too high, or too low, and reveal the results of the analysis supporting that conclusion. At your discretion, you may indicate to all offerors your estimated cost for the project.

§ 636.509 Can offerors revise their proposals as a result of discussions?

(a) Yes, you may request or allow proposal revisions to clarify and document understandings reached during discussions. At the conclusion of discussions, each offeror shall be given an opportunity to submit a final proposal revision.

(b) You must establish a common cut-off date only for receipt of final proposal revisions. Requests for final proposal revisions shall advise offerors that the final proposal revisions shall be in writing and that the contracting agency intends to make award without obtaining further revisions.

§ 636.510 Can the competitive range be further defined once discussions have begun?

Yes, you may further narrow the competitive range if an offeror originally in the competitive range is no longer considered to be among the most highly rated offerors being considered for award. That offeror may be eliminated from the competitive range whether or not all material aspects of the proposal have been discussed, or whether or not the offeror has been afforded an opportunity to submit a proposal revision. You must provide an offeror excluded from the competitive range with a written determination and notice that proposal revisions will not be considered.

§ 636.511 Can there be more than one round of discussions?

Yes, but only at the conclusion of discussions will the offerors be requested to submit a final proposal revision. Thus, regardless of the length

or number of discussions, there will be only one request for a revised proposal (i.e., only one best and final offer).

§ 636.512 What is the basis for the source selection decision?

(a) You must base the source selection decision on a comparative assessment of proposals against all selection criteria in the solicitation. While you may use reports and analyses prepared by others, the source selection decision shall represent your independent judgment.

(b) The source selection decision shall be documented, and the documentation shall include the rationale for any business judgments and tradeoffs made or relied on, including benefits associated with additional costs. Although the rationale for the selection decision must be documented, that documentation need not quantify the tradeoffs that led to the decision.

Subpart F—Notifications and Debriefings

§ 636.601 When must notification be provided to unsuccessful offerors?

You must provide written notification to unsuccessful offerors, as follows:

(a) *Preaward notification.* When you exclude an offeror from the competitive range or otherwise eliminate an offeror from competition prior to the award of contract, you must provide a written notification to the offeror. The notification shall state the basis for the determination and that a proposal revision will not be considered.

(b) *Postaward notification.* You must provide written notification of contract award within three working days to:

(1) Each offeror whose proposal was in the competitive range, but did not receive award; and

(2) Offerors who did not receive a preaward notification.

§ 636.602 What issues must be provided in the written notification of contract award to unsuccessful offerors?

(a) The written notification must include:

(1) The number of offerors solicited;

(2) The number of proposals received;

(3) The name and address of each offeror receiving an award;

(4) The items, quantities, and unit prices of awarded contracts, except where it its impractical to furnish unit prices, the total contract price may be furnished; and

(5) In general terms, the reason(s) the offeror's proposal was not accepted, unless the price information readily reveals the reason.

(b) The notification must not reveal an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information to any other offeror.

§ 636.603 How may I notify the successful offeror?

You may notify the successful offeror in accordance with your own procedures.

§ 636.604 Can offerors request preaward or postaward debriefings?

(a) Yes, any offeror may request a debriefing. You may provide oral or written debriefings.

(b) Offerors who have been excluded from the competitive range or otherwise excluded from the competition before award may request a debriefing before award by submitting a written request within three days after receipt of a notice of exclusion from further consideration. You should provide the debriefing as soon as practicable. However, at your discretion, you may delay the debriefing until after contract award.

(c) If the offeror does not submit a timely request, the offeror need not be given either a preaward or a postaward debriefing. Offerors are entitled to no more than one debriefing for each proposal.

(d) An official summary of the preaward or postaward debriefing shall be included in the contract file.

§ 636.605 What issues must be discussed at preaward debriefings?

At a minimum, preaward debriefings shall include:

(a) The agency's evaluation of significant elements in the offeror's proposal;

(b) A summary of the rationale for eliminating the offeror from the competition; and

(c) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed in the process of eliminating the offeror from the competition.

§ 636.606 What issues must not be discussed at preaward debriefings?

You must not disclose:

(a) The number of offerors;

(b) The identity of other offerors;

(c) The content of other offerors' proposals;

(d) The ranking of other offerors;

(e) The evaluation of other offerors; or

(f) Any of the information prohibited in § 636.608.

§ 636.607 What issues must be discussed at postaward debriefings?

At a minimum, the debriefing information shall include the following:

(a) Your agency's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;

(b) The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;

(c) The overall ranking of all offerors, when any ranking was developed by your agency during the source selection;

(d) A summary of the rationale for award; and

(e) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

§ 636.608 What issues must not be discussed at postaward debriefings?

(a) The debriefing shall not include point-by-point comparisons of the debriefed offeror's proposal with those of other offerors.

(b) The debriefing shall not reveal any information prohibited from disclosure under the Freedom of Information Act (5 U.S.C. 552) including the following:

(1) Trade secrets;

(2) Privileged or confidential manufacturing processes and techniques;

(3) Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and

(4) The names of individuals providing reference information about an offeror's past performance.

PART 637—CONSTRUCTION INSPECTION AND APPROVAL

19. The authority citation for part 637 is revised to read as follows:

Authority: Sec. 1307, Pub. L. 105–178, 112 Stat. 107, at 229 (1998); 23 U.S.C. 109, 114, and 315; 49 CFR 1.48(b).

PART 637—[AMENDED]

20. In part 637 revise all references to ''State highway agency's'' to read ''State transportation department's''; revise the acronyms ''SHA'' and ''SHAs'' to read ''STD'' and ''STDs'', respectively; and revise the references to ''non-SHA'' to read ''non-STD''.

21. Amend § 637.207 by adding paragraph (a)(1)(iv) and paragraph (b) to read as follows:

§ 637.207 Quality assurance program.

(a) * * *

(1) * * *

(iv) In the case of a design-build project on the National Highway System, warranties may be used where appropriate. Warranties which are limited in scope or duration may be supplemented by quality control and verification sampling and testing. Warranty provisions shall generally be for a specific product or feature.

* * * * *

(b) In the case of a design-build project funded under title 23, U.S. Code, the STD's quality assurance program should consider the specific contractual needs of the design-build project. All provisions of § 637.207(a) are applicable to design-build projects. In addition, the quality assurance program may include the following:

(1) Reliance on a combination of contractual provisions and acceptance methods;

(2) Reliance on quality control sampling and testing as part of the acceptance decision, provided that adequate verification of the design-builder's quality control sampling and testing is performed to ensure that the design-builder is providing the quality of materials and construction required by the contract documents.

(3) Contractual provisions which require the operation of the completed facility for a specific time period.

PART 710—RIGHT-OF-WAY AND REAL ESTATE

22. The authority citation for part 710 is revised to read as follows:

Authority: Sec. 1307, Pub. L. 105–178, 112 Stat. 107, at 229 (1998); 23 U.S.C. 101(a), 107, 108, 111, 114, 133, 142(f), 156, 204, 210, 308, 315, 317, and 323; 42 U.S.C. 2000d *et seq.*, 4633, 4651–4655; 49 CFR 1.48(b) and (cc), 18.31, and parts 21 and 24; 23 CFR 1.32.

23. Amend part 710 by adding § 710.313 to subpart C to read as follows:

§ 710.313 Design-build projects.

(a) In the case of a design-build project, right-of-way must be acquired and cleared in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and STD right-of-way procedures. The procedures in § 710.311 regarding responsibility for the review and approval of right-of-way availability statements and certifications also apply to design-build projects.

(b) The decision to advance a right-of-way segment to the construction stage shall not impair the safety or in anyway be coercive in the context of 49 CFR 24.102(h) with respect to unacquired or occupied properties on the same or adjacent segments of project right-of-way.

(c) Certain right-of-way acquisition and clearance services may be incorporated into the design-build contract if allowed under State law. The contract may include language that provides that construction will not commence until all property is acquired and relocations have been completed. In situations where large, multi-year construction projects are undertaken, the construction could be phased or segmented to allow right-of-way activities to be completed in phases, thereby allowing certification for each section.

(d) If the STD elects to include right-of-way services in the design-build contract, the following provisions must be addressed in the request for proposals document:

(1)(i) The design-builder must submit written acquisition and relocation procedures to the STD for approval prior to commencing right-of-way activities. These procedures should contain a prioritized appraisal, acquisition, and relocation strategy as well as check points for STD approval, such as approval of just compensation, replacement housing payment calculations, replacement housing payment and moving cost claims, appraisals, administrative and stipulated settlements that exceed determined thresholds based on a risk management analysis, etc.

(ii) The written relocation plan must provide reasonable time frames for the orderly relocation of residents and businesses on the project. It should be understood that these time frames will be based on best estimates of the time it will take to acquire the right-of-way and relocate families in accordance with certain legal requirements and time frames which may not be violated. Accordingly, the time frames estimated for right-of-way acquisition will not be compressed in the event other necessary actions preceding right-of-way acquisition miss their assigned due dates.

(2)(i) The design-builder must establish a project tracking system and quality control system. This system must show the appraisal, acquisition and relocation status of all parcels.

(ii) The quality control system may be administered by an independent consultant with the necessary expertise in appraisal, acquisition and relocation policies and procedures, who can make periodic reviews and reports to the design-builder and the STD.

(3) The STD may consider the establishment of a hold off zone around all occupied properties to ensure compliance with right-of-way procedures prior to starting construction activities in affected areas. The limits of this zone should be established by the STD prior to the design-builder entering on the property. There should be no construction related activity within the hold off zone until the property is vacated. The design-builder must have written notification of vacancy from the right-of-way quality control consultant or STD prior to entering the hold off zone.

(4) Adequate access shall be provided to all occupied properties to insure emergency and personal vehicle access.

(5) Utility service must be available to all occupied properties at all times prior to and until relocation is completed.

(6) Open burning should not occur within 305 meters (1,000 feet) of an occupied dwelling.

(7) The STD will provide a right-of-way project manager who will serve as the first point of contact for all right-of-way issues.

(e) If the STD elects to perform all right-of-way services relating to the design-build contract, the provisions in § 710.311 will apply. The STD will notify potential offerors of the status of all right-of-way issues in the request for proposal document.

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Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 1, 36, and 53

Federal Acquisition Regulation; New Consolidated Form for Selection of Architect-Engineer Contractors; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 36, and 53

[FAR Case 2000–608]

RIN 9000–AJ15

Federal Acquisition Regulation; New Consolidated Form for Selection of Architect-Engineer Contractors

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to replace SF 254, Architect-Engineer and Related Services Questionnaire, and SF 255, Architect-Engineer and Related Services Questionnaire for Specific Projects, with SF 330, Architect-Engineer Qualifications. SF 330 reflects current architect-engineer practices in a streamlined and updated form, organized in data blocks that readily support automation.

DATES: Interested parties should submit comments in writing on or before December 18, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Submit electronic comments via the Internet to: farcase.2000–608@gsa.gov

Please submit comments only and cite FAR case 2000–608 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219–0202. Please cite FAR case 2000–608.

SUPPLEMENTARY INFORMATION:

A. Background

An interagency ad hoc committee developed SF 330. The ad hoc committee based the development of the form on Federal Facilities (FCC) Council Technical Report No. 130, ''[Joint Federal-industry] Survey on the Use of SFs 254 and 255 for Architect-Engineer Qualifications,'' 1996 (The Federal Facilities Council is an arm of the Congressionally charted National Academy of Sciences.) The report states that Federal agencies and the architect-engineer industry strongly endorse maintaining a structured format for presenting architect-engineer qualifications. The report also concludes that the SFs 254 and 255 need improvement.

Both Federal and industry architect-engineer practitioners believe that the forms need streamlining, as well as updating to facilitate electronic usage. Hence the SFs 254 and 255 have been consolidated into SF 330. The SF 330 reflects current architect-engineer practices in a streamlined and updated form organized in data blocks that readily support automation.

The proposed rule replaces SFs 254 and 255 with SF 330 and makes related FAR revisions in 1.106, 36.603, 36.702, 53.236–2 and 53.301–330. The proposed rule makes the following changes:

- Merges the SFs 254 and 255 into a single streamlined SF 330.
- Expands essential information about qualifications and experience such as an organizational chart of all participating firms and key personnel.
- Reflects current architect-engineer disciplines, experience types and technology.
- Eliminates information of marginal value such as a list of all offices of a firm.
- Permits limited submission length thereby reducing costs for both the architect-engineer industry and the government.
- Facilitates electronic usage by organizing the form in data blocks.

SF 330, Part II, Block 5.b. requests information based on the North American Industry Classification System (NAICS). Effective October 1, 2000, the FAR was revised to convert size standards and other programs in the FAR that are currently based on the Standard Industrial Classification (SIC) code system to NAICS (65 FR 46055). The SF 330 has been revised to comply with the aforementioned, October 1, 2000, FAR revision.

Pending public comment, this is not considered a significant regulatory action and, therefore, is not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only replaces two standard forms, with one consolidated streamlined standard form. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 1, 36, and 53 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2000–608), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the proposed rule contains information collection requirements. The proposed rule replaces the current SF 254, Architect-Engineer and Related Services, and the current SF 255, Architect-Engineer and Related Services Questionnaire for Specific Project, Questionnaire, with a new SF 330, Architect-Engineer Qualifications. The current SF 254 approved information collection requirement states that it takes 1 hour to complete; and the current SF 255 approved information collection requirement states that it takes 1.2 hours to complete. Experience has shown that these hours are substantially underestimated. The SF 330, Architect-Engineer Qualifications, has been developed by an interagency ad hoc committee, based on Federal Facilities (FCC) Council Technical Report No. 130, ''[Joint Federal-industry] Survey on the Use of SFs 254 and 255 for Architect-Engineer Qualifications,'' 1996. Accordingly, the FAR Secretariat has submitted a request for approval of a new information collection requirement concerning OMB control number 9000–00XX, New Consolidated Form for Selection of Architect-Engineer Contractors, to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 29 hours (25 hours for Part 1 and 4 hours for Part 2) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and

reviewing the collection of information. Because of the tailoring required by the form for each project submittal, there are virtually no savings in burden hours by repeat submittals.

The annual reporting burden is estimated as follows:

Respondents: 5000.

Responses per respondent: 4.

Total annual responses: 20,000.

Preparation hours per response: 29.

Total response burden hours: 580,000.

D. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than December 18, 2001 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–00XX, FAR Case 2000–608 New Consolidated Form for Selection of Architect-Engineer Contractors, in all correspondence.

List of Subjects in 48 CFR Parts 1, 36, and 53

Government procurement.

Dated: October 11, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose to amend 48 CFR parts 1, 36, and 53 as set forth below:

1. The authority citation for 48 CFR parts 1, 36, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

2. Amend Section 1.106 in the table following the introductory text by removing from the column ''FAR segment'' the entries ''SF 254'' and ''SF 255'' and their corresponding OMB Control Numbers; and by adding, in sequential order, to the FAR segment column ''SF 330'' and the corresponding OMB Control Number ''9000–00XX''.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

3. Amend Section 36.603 by—

a. Revising paragraph (b) and the introductory text of paragraph (c);

b. Removing from paragraph (d) introductory text ''shall'' and adding ''must'' in its place;

c. Removing from paragraph (d)(1) ''SF 254'' and adding ''SF 330, Part II'' in its place; and

d. Removing from paragraph (d)(2) ''SF's 254 and 255'' and inserting ''SF 330'' in its place.

The revised text reads as follows:

36.603 Collecting data on and appraising firms' qualifications.

* * * * *

(b) *Qualifications data.* To be considered for architect-engineer contracts, a firm must file with the appropriate office or board the Standard Form 330, ''Architect-Engineer Qualifications'', Part II, and when applicable, SF 330, Part I.

(c) *Data files and the classification of firms.* Under the direction of the parent agency, offices or permanent evaluation boards must maintain an architect-engineer qualifications data file. These offices or boards must review the SF 330 filed, and must classify each firm with respect to—

* * * * *

4. Amend Section 36.702 by revising paragraph (b) to read as follows:

36.702 Forms for use in contracting for architect-engineer services.

* * * * *

(b) The SF 330, Architect-Engineer Qualifications, shall be used to evaluate firms before awarding a contract for architect-engineer services:

(1) Use the SF 330, Part I—Contract-Specific Qualifications, to obtain information from an architect-engineer firm about its qualifications for a specific contract when the contract amount is expected to exceed the simplified acquisition threshold. Part 1 may be used when the contract amount is expected to be at or below the simplified acquisition threshold, if the contracting officer determines that its use is appropriate.

(2) Use the SF 330, Part II—General Qualifications, to obtain information from an architect-engineer firm about its general professional qualifications.

* * * * *

PART 53—FORMS

5. Amend Section 53.236–2 by revising the section heading and paragraph (b); and by removing paragraph (c) and redesignating paragraph (d) as (c). The revised text reads as follows:

53.236–2 Architect-engineer services (SFs 252, 330, and 1421).

* * * * *

(b) *SF 330 (xx/01), Architect-Engineer Qualifications.* SF 330 is prescribed for use in obtaining information from architect-engineer firms regarding their professional qualifications, as specified in 36.702(b)(1) and (2).

* * * * *

53.301–254 and 53.301–255 [Removed]

5. Sections 53.301–254 and 53.301–255 are removed.

53.301–330 [Added]

6. Section 53.301–330 is added as follows:

53.301–330 Architect-Engineer Qualifications.

BILLING CODE 6820–EP–P

ARCHITECT-ENGINEER QUALIFICATIONS

OMB No.: 9000-0004
Expires:

Public reporting burden for this collection of information is estimated to average a total of 29 hours per response (25 hours for Part 1 and 4 hours for Part 2), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Acquisition Policy Division, GSA, Washington, DC 20405.

PURPOSE

Federal agencies use this form to obtain information from architect-engineer (A-E) firms about their professional qualifications. Federal agencies select firms for A-E contracts on the basis of professional qualifications as required by the Brooks A-E Act (40 U.S.C. 541-544) and Part 36 of the Federal Acquisition Regulation (FAR).

The Brooks A-E Act requires the public announcement of requirements for A-E services (with some exceptions provided by other statutes), and the selection and interviews with at least three of the most highly qualified firms based on demonstrated competence and professional qualifications according to specific criteria published in the announcement. The Act then requires the negotiation of a contract with the most highly qualified firm at a fair and reasonable price.

The information used to evaluate firms is from this form and other sources; it includes performance evaluations, any additonal data requested by the agency, and interviews with the most highly qualified firms and their references.

GENERAL INSTRUCTIONS

Part I presents the qualifications for a specific contract.

Part II presents the general qualifications of a firm or a specific branch office of a firm. Part II has two uses:

1. An A-E firm may submit Part II to the appropriate central, regional or local office of each Federal agency to be kept on file. A public announcement is not required for certain contracts, and agencies may use Part II as a basis for selecting at least three of the most highly qualified firms for discussions prior to requesting submission of Part I. Firms are encouraged to update Part II on file with agency offices, as appropriate, according to FAR Part 36. If a firm has branch offices, submit a separate Part II for each branch office seeking work.

2. Prepare a separate Part II for each firm that will be part of the team proposed for a specific contract and submitted with Part I. If a firm has branch offices, submit a separate Part II for each branch office that is part of the team.

INDIVIDUAL AGENCY INSTRUCTIONS

Individual agencies may supplement these instructions. For example, they may limit the number of projects or number of pages submitted in Part I in response to a public announcement for a particular project. Carefully comply with any agency instructions when preparing and submitting this form. Be as concise as possible and provide only the information requested by the agency.

DEFINITIONS

Architect-Engineer Services: Defined in FAR 2.101.

Branch Office: A geographically distinct place of business or subsidiary office of a firm that is part of the proposed team.

Discipline: Primary technical capabilities of key personnel, as evidenced by academic degree, professional registration, certification, and/or extensive experience.

Firm: Defined in FAR 36.102.

Key Personnel: Individuals who will have major contract responsibilities and/or provide unusual or unique expertise.

SPECIFIC INSTRUCTIONS

Part I - Contract-Specific Qualifications:

1. and 2. Page Number and Total Pages. Number each page of Part I sequentially, including any additional sheets, and indicate the total number of pages on each page.

Section A. Contract Information.

3. and 4. Title and Location. Enter the title and location of the contract for which this form is being submitted, exactly as shown in the public announcement or agency request.

5. Public Notice Date. Enter the posted date of the agency's notice on FedBizOpps, other form of public announcement or agency request for this contract.

6. Solicitation or Project Number. Enter the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request for this contract.

Section B. Architect-Engineer Point of Contact

7-11. Name, Title, Telephone Number, Fax (Facsimile) Number and E-mail (Electronic Mail) Address. Provide information for a representative of the prime contractor or joint venture that the agency can contact for additional information.

Section C. Proposed Team

12-14. Firm Name, Address, and Role in This Contract. Indicate the contractual relationship (prime contractor, joint venture partner or subcontractor) and provide the name, full mailing address, and role of each firm that will be involved in performance of this contract. If a firm has branch offices, indicate each individual branch office that will be part of the team. The named subcontractors and outside associates or consultants must be used, and any change must be approved by the contracting officer. (See FAR Part 52 Clause "Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)".) Attach an additional sheet in the same format as Section C if needed.

Section D. Organizational Chart of Firms and Key Personnel

On a separate sheet, inserted after Section C, present an organizational flowchart showing each firm (and each branch office, if appropriate) listed in Section C, and the names and roles of all key personnel listed in Section E.

Section E. Resumes of Key Personnel Proposed for This Contract

Complete this section for each key person who will participate in this contract. Group by firm, with personnel of the prime contractor or joint venture partner firms first. The following blocks must be completed for each resume:

15. Name. Self-explanatory.

16. Role in This Contract. Self-explanatory.

17. Years Experience. Total years of relevant experience (block 17a), and years of relevant experience with this firm, but not necessarily the same branch office (block 17b).

18. and 19. Firm Name and Firm Location. Name, city and state of the firm where the person currently works, which must correspond with one of the firms (or branch office of a firm, if appropriate) listed in Section C.

20. Education. Provide information on the highest relevant academic degree(s) received. Indicate the area(s) of emphasis for each degree under Specialization (block 20d). If the person has more than two relevant degrees, show in Other Professional Qualifications (block 22).

21. Current Professional Registration. Provide information on current relevant professional registration(s) in a State or possession of the United States, Puerto Rico, or the District of Columbia according to FAR Part 36. If the person has more than two relevant professional registrations, show in Other Professional Qualifications (block 22).

22. Other Professional Qualifications. Provide information on any other professional qualifications relating to this contract, such as education, professional registration, publications, organizational memberships, certifications, training, awards, security clearance, and foreign language capabilities.

23. Relevant Projects. Provide information on up to five projects in which the person had a significant role that demonstrates the person's capability relevant to her/his proposed role in this contract. These projects do not necessarily have to be any of the projects presented in Section F for the project team if the person was not involved in any of those projects or the person worked on other projects that were more relevant than the team projects in Section F. If any of the professional services or construction projects are not complete, leave Year Completed (block (3)) blank and indicate the status in Description (block (4)). Only attach photographs if requested by the agency.

Section F. Example Projects Which Best Illustrate Proposed Team's Qualifications for This Contract

Select projects where multiple team members worked together, if possible, that demonstrate the team's capability to perform work similar to that required for this contract. Complete one Section F for each project. Present ten projects, unless otherwise specified by the agency. Complete the following blocks for each project:

24. Title. Title of project or contract.

25. Location. Self-explanatory.

26. Project Owner. Project owner or user, such as a government agency or installation, an institution, a corporation or private individual.

27. Project Owner's Point of Contact. Provide information about a person associated with the project owner or the organization which contracted for the professional services, who is very familiar with the project and the firm's (or firms') performance.

28. Brief Description of Project and Relevance to This Contract. Indicate scope, size, cost, principal elements and special features of the project. Discuss the relevance of the example project to this contract. Only attach photographs if requested by the agency.

29. and 30. Professional Services and Construction. Enter the year completed and cost of the professional services (such as planning, engineering study, design, or surveying), and/or the year completed and cost of construction, if applicable. If any of the professional services or the construction projects are not complete, leave Year Completed (block 29a or 30a) blank and indicate the status in Brief Description (block 28).

31. Firms from Section C Involved with This Project. Indicate which firms (or branch offices, if appropriate) on the project team were involved in the example project, and their roles. List in the same order as in Section C.

32. Awards. Describe any awards the project received from governmental agencies or industry or professional organizations. Only attach the awards if requested by the agency.

33. Additional Project Information. Enter specific data requested by the agency for each example project. See the Commerce Business Daily or other types of announcements.

Section G. Key Personnel Participation in Example Projects

This matrix is intended to graphically depict which key personnel identified in Section E worked on the example projects listed in Section F. Complete the following blocks (see example below).

34. and 35. Names of Key Personnel and Role in This Contract. List the names of the key personnel and their proposed roles in this contract in the same order as they appear in Section E.

36. Example Projects Listed in Section F. In the column under each project key number (see block 37) and for each key person, insert a "1" if the person was involved in any role with the project or a "2" if the person performed in the same or similar role as proposed for this contract. Attach an additional Section G sheet if needed.

37. Example Projects Key. List the titles of the example projects in the same order as they appear in Section F.

Section H. Additional Information

38. Use this section to provide information specifically requested by the agency or to address selection criteria which are not covered by the information provided in Sections A-G. Typical information which may be required in this section includes: computer-aided design capabilities, metric design experience, quality management procedures, special contract capabilities, specialized equipment, security clearances, capacity to perform this contract in the required time period, knowledge of the project locality and local regulations, and contract awards by Federal agencies.

Section I. Authorized Representative

39. and 40. Signature of Authorized Representative and Date. An authorized representative of a joint venture or the prime contractor must sign and date the completed form. Signing attests that the information provided is current and factual, and that all firms on the proposed team agree to work on the project. Joint ventures selected for negotiations must make available a statement of participation by a principal of each member of the joint venture.

SAMPLE ENTRIES FOR SECTION G (MATRIX)

34. NAMES OF KEY PERSONNEL (From Section E, Block 15)	35. ROLE IN THIS CONTRACT (From Section E, Block 16)	36. EXAMPLE PROJECTS LISTED IN SECTION F (Fill in "Example Projects Key" section below first, before completing table. Place "1" under project key number for project participation in any role; Place "2" under project key number for participation in same or similar role.)									
		1	2	3	4	5	6	7	8	9	10
Jane A. Smith	Chief Architect	1		2							
Joseph B. Williams	Chief Mech. Engineer	2	2	2	2						
Tara C. Donovan	Chief Elec. Engineer	2	1		2						
Evan D. Summer	CADD Technician	1	1	2	1						

37. EXAMPLE PROJECTS KEY

NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)	NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)
1	Federal Courthouse, Denver, CO	3	XYZ Corporation Headquarters, Boston, MA
2	Justin J. Wilson Federal Building, Baton Rouge, LA	4	Founder's Museum, Newport RI

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41. and 42. Name and Title of Authorized Representative. Provide this information for the authorized representative who signed the form.

Part II - General Qualifications

See the **"General Instructions"** on page 1 for firms with branch offices. If a firm has branch offices, prepare Part II for the specific branch office seeking work.

1. Solicitation Number. If Part II is submitted for a specific contract, insert the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request.

2a-2f. Firm (or Branch Office) Name and Address. Self-explanatory.

3. Year Established. Enter the year the firm (or branch office, if appropriate) was established under the current name.

4. DUNS Number. Insert the Data Universal Numbering System number issued by Dun and Bradstreet Information Services. See FAR Part 4. No DUNS number is required if the firm has not been issued one.

5. Ownership.

a. Type. Enter the type of ownership or legal structure of the firm (sole proprietor, partnership, corporation, joint venture, etc.).

b. Small Business Status. Refer to the North American Industry Classification System (NAICS) code in the public announcement, and indicate if the firm is a small business according to the current size standard for that NAICS code (for example, Engineering Services (part of NAICS 541330), Architectural Services (NAICS 541310), Surveying and Mapping Services (NAICS 541370)). The small business categories and the description of the NAICS codes appear in FAR Part 19. Contact the requesting agency for any questions.

6a-6d. Point of Contact. Provide this information for a representative of the firm that the agency can contact for additional information. The representative must be empowered to speak on contractual and policy matters.

7. Name of Firm. Enter the name of the firm if Part II is prepared for a branch office.

8a-8c. Former Firm Names. Indicate any other previous names for the firm (or branch office) during the last six years. Insert the year that this corporate name change was effective and the associated DUNS Number. This information is used to review past performance on Federal contracts.

9. Employees by Discipline. If Part II is prepared for a firm (including all branch offices), enter the number of employees by discipline in Col. c(1). If Part II is prepared for a branch office, enter the number of employees by discipline in Col. c(2) and for the firm in Col. c(1). Use the relevant disciplines and associated function codes shown at the end of these instructions, and list in the same numerical order. After the listed disciplines, write in any additional disciplines and leave the function code blank. Each person can be counted only once according to his/her primary function.

10. Profile of Firm's Experience and Annual Average Revenue for Last 5 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the experience categories which most accurately reflect the firm's technical capabilities and project experience. Use the relevant experience categories and associated profile codes shown at the end of these instructions, and list in the same numerical order. After the listed experience categories, write in any additional relevant project experiences and leave the profile code blank. For each type of experience, enter the appropriate revenue index number to reflect the professional services revenues received annually (averaged over the last 5 years) by the firm for performing that type of work. A particular project may be identified with one experience category or it may be broken into components, as best reflects the capabilities and types of work performed by the firm. However, do not double count the revenues received on a particular project.

11. Annual Average Professional Services Revenues of Firm for Last 3 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the appropriate revenue index numbers to reflect the professional services revenues received annually (averaged over the last 3 years) by the firm or branch office. Indicate Federal work (performed directly for the Federal Government, either as the prime contractor or subcontractor), non-Federal work (all other domestic and foreign work, including Federally-assisted projects), and the total. If the firm has been in existence for less than 3 years, see FAR Subpart 19.1 "Annual Receipts".

12. Authorized Representative. An authorized representative of the firm or branch office must sign and date the completed form. Signing attests that the information provided is current and factual. Provide the name and title of the authorized representative who signed the form.

List of Disciplines (Function Codes)

Code	Description
01	Administrative
02	Architects
03	Biologists
04	CADD Technicians
05	Cartographers
06	Chemists
07	Construction Inspectors
08	Construction Managers
09	Draftspersons
10	Ecologists
11	Economists
	Engineers:
12	Acoustical
13	Aeronautical
14	Chemical
15	Civil
16	Communications
17	Corrosion
18	Cost (Estimators)
19	Electrical/Electronic
20	Environmental
21	Fire Protection
22	Forensic
23	Foundation/Geotechnical
24	Industrial
25	Information Systems
26	Materials
27	Mechanical
28	Mining
29	Safety/Occupational Health
30	Soils
31	Specifications
32	Structural
33	Transportation
34	Value
35	Environmental Scientists
36	Geodetic Surveyors
37	Geologists
38	Geospacial Information Systems
39	Technicians/Analysts
40	Health Facility Planners
41	Hydrologists
42	Industrial Hygienists
43	Interior Designers
44	Landscape Architects
45	Oceanographers
46	Planners: Urban/Regional
47	Project Managers
48	Risk Assessors
49	Schedulers
50	Security Specialists
51	Topographic Surveyors
52	Toxicologists

List of Experience Categories (Profile Codes)

Code	Description
A01	Acoustics, Noise Abatement
A02	Aerial Photogrammetry
A03	Agricultural Development; Grain Storage; Farm Mechanization
A04	Air Pollution Control
A05	Airports; Navaids; Airport Lighting; Aircraft Fueling; Paving
A06	Airports; Terminals and Hangars; Freight Handling
A07	Arctic Facilities
A08	Animal Facilities
A09	Asbestos Abatement
A10	Auditoriums & Theaters
A11	Automation; Controls; Instrumentation
B01	Barracks; Dormitories
B02	Bridges
C01	Cemeteries *(Planning & Relocation)*
C02	Chemical Processing & Storage
C03	Child Care/Development Facilities
C04	Churches; Chapels
C05	Coastal Engineering
C06	Codes; Standards; Ordinances
C07	Cold Storage; Refrigeration and Fast Freeze
C08	Commercial Building *(low rise)*; Shopping Centers
C09	Community Facilities
C10	Communications Systems; TV; Microwave
C11	Computer Facilities; Computer Service
C12	Conservation and Resource Management
C13	Construction Management
C14	Construction Surveying
C15	Corrosion Control; Cathodic Protection; Electrolysis
C16	Cost Engineering and Analysis; Parametric Costing; Forecasting; Risk Analysis; Life Cycle Costing
C17	Cryogenic Facilities
D01	Dams *(Concrete; Arch)*
D02	Dams *(Earth; Rock)*; Dikes; Levees
D03	Desalinization *(Process & Facilities)*
D04	Design-Build
D05	Dining Halls; Clubs; Restaurants
D06	Dredging Studies and Design
E01	Ecological & Archeological Investigations
E02	Educational Facilities; Classrooms
E03	Electrical Studies and Design
E04	Electronics
E05	Elevators; Escalators; People-Movers
E06	Energy Conservation; New Energy Sources
E07	Engineering Economics
E08	Environmental Impact Studies, Assessments or Statements
E09	Environmental Remediation
E10	Environmental Testing and Analysis
F01	Fallout Shelters; Blast-Resistant Design
F02	Field Houses; Gyms; Stadiums
F03	Fire Protection
F04	Fisheries; Fish ladders
F05	Forensic Engineering
F06	Forestry & Forest products
G01	Galleries
G02	Garages; Vehicle Maintenance Facilities; Parking Decks
G03	Gas Systems (Propane; Natural, Etc.)
G04	Geographic Information System Development/Analysis
G05	Graphic Design
H01	Harbors; Jetties; Piers, Ship Terminal Facilities
H02	Hazardous Materials Handling and Storage
H03	Hazardous, Toxic, Radioactive Waste Remediation
H04	Heating; Ventilating; Air Conditioning
H05	Health Systems Planning
H06	Highrise; Air-Rights-Type Buildings
H07	Highways; Streets; Parking Lots
H08	Historical Preservation
H09	Hospital & Medical Facilities
H10	Hotels; Motels
H11	Housing *(Residential, Multi-Family; Apartments; Condominiums)*
H12	Hydraulics & Pneumatics
H13	Hydrographic Surveying
I01	Industrial Buildings; Manufacturing Plants
I02	Industrial Processes; Quality Control
I03	Industrial Waste Treatment
I04	Interior Design; Space Planning
I05	Irrigation; Drainage
J01	Judicial and Courtroom Facilities
L01	Laboratories
L02	Land Boundary Surveying
L03	Landscape Architecture
L04	Libraries

List of Experience Categories (Profile Codes)

Code	Description
L05	Lighting (Interior; Display; Theater, Etc.)
L06	Lighting (Exteriors; Streets; Memorials; Athletic Fields, Etc.)
M01	Materials Handling Systems; Conveyors; Sorters
M02	Metallurgy
M03	Microclimatology; Tropical Engineering
M04	Military Design Standards
M05	Mining & Mineralogy
M06	Missile Facilities (Silos; Fuels; Transport)
M07	Modular Systems Design; Pre-Fabricated Structures or Components
M08	Museums
N01	Naval Architecture; Off-Shore Platforms
N02	Nuclear Facilities; Nuclear Shielding
O01	Office Buildings; Industrial Parks
O02	Oceanographic Engineering
O03	Ordnance; Munitions; Special Weapons
P01	Petroleum Exploration; Refining
P02	Petroleum and Fuel (Storage and Distribution)
P03	Pipelines (Cross-Country - Liquid & Gas)
P04	Planning (Community, Regional, Areawide and State)
P05	Planning (Site, Installation, and Project)
P06	Plumbing & Piping Design
P07	Prisons & Correctional Facilities
P08	Product, Machine Equipment Design
P09	Pneumatic Structures, Air-Support Buildings
P10	Postal Facilities
P11	Power Generation, Transmission, Distribution
P12	Public Safety Facilities
R01	Radar; Sonar; Radio & Radar Telescopes
R02	Radio Frequency Systems & Shieldings
R03	Railroad; Rapid Transit
R04	Recreation Facilities (Parks, Marinas, Etc.)
R05	Refrigeration Plants/Systems
R06	Rehabilitation (Buildings; Structures; Facilities)
R07	Research Facilities
R08	Resources Recovery;
R09	Recycling Risk Analysis
R10	Rivers; Canals; Waterways; Flood Control
R11	Roofing
S01	Safety Engineering; Accident Studies; OSHA Studies
S02	Security Systems; Intruder & Smoke Detection
S03	Seismic Designs & Studies
S04	Sewage Collection, Treatment and Disposal
S05	Soils & Geologic Studies; Foundations
S06	Solar Energy Systems
S07	Solid Wastes; Incineration; Landfill
S08	Special Environments; Clean Rooms, Etc.
S09	Structural Design; Special Structures
S10	Surveying; Platting; Mapping; Flood Plain Studies
S11	Sustainable Design
S12	Swimming Pools
S13	Storm Water Handling & Facilities
T01	Telephone Systems *(Rural; Mobile; Intercom, Etc.)*
T02	Testing & Inspection Services
T03	Traffic & Transportation Engineering
T04	Topographic Mapping
T05	Towers *(Self-Supporting & Guyed Systems)*
T06	Tunnels & Subways
U01	Unexploded Ordinance Remediation
U02	Urban Renewals; Community Development
U03	Utilities
V01	Value Analysis; Life-Cycle Costing
W01	Warehouses & Depots
W02	Water Resources; Hydrology; Ground Water
W03	Water Supply; Treatment and Distribution
W04	Wind Tunnels; Research/Testing Facilities Design
Z01	Zoning; Land Use Studies

ARCHITECT - ENGINEER QUALIFICATIONS

1. PAGE NUMBER	2. TOTAL PAGES

PART I - CONTRACT-SPECIFIC QUALIFICATIONS

A. CONTRACT INFORMATION

3. TITLE	4. LOCATION *(City and State)*
5. PUBLIC NOTICE DATE	6. SOLICITATION OR PROJECT NUMBER

B. ARCHITECT-ENGINEER POINT OF CONTACT

7. NAME		8. TITLE
9. TELEPHONE NUMBER	10. FAX NUMBER	11. E-MAIL ADDRESS

C. PROPOSED TEAM

(Complete this section for the prime contractor and all other firms proposed for this contract. If a firm has branch offices, complete this section for the particular branch office(s) proposed for the contract.)

	"X" ONE			12. FIRM NAME	13. ADDRESS	14. ROLE IN THIS CONTRACT
	PRIME	JV PARTNER	SUBCONTRACTOR			
a.						
b.						
c.						
d.						
e.						
f.						
g.						
h.						
i.						

D. ORGANIZATIONAL CHART OF FIRMS AND KEY PERSONNEL ☐ *(Attached)*

E. RESUMES OF KEY PERSONNEL PROPOSED FOR THIS CONTRACT *(Complete one Section E for each key person.)*		PAGE NUMBER	TOTAL PAGES
15. NAME	16. ROLE IN THIS CONTRACT	17. YEARS EXPERIENCE a. TOTAL	b. WITH THIS FIRM
18. FIRM NAME	19. FIRM LOCATION *(City and State)*		

20. EDUCATION

a. DEGREE	b. DISCIPLINE	c. YEAR	d. SPECIALIZATION

21. CURRENT PROFESSIONAL REGISTRATION		
a. STATE	b. YEAR FIRST REGISTERED	c. DISCIPLINE

22. OTHER PROFESSIONAL QUALIFICATIONS *(Publications, Organizations, Training, Awards, etc.)*

23. RELEVANT PROJECTS

	(1) TITLE	(2) LOCATION *(City and State)*	(3) YEAR COMPLETED: PROFESSIONAL SERVICES	(3) YEAR COMPLETED: CONSTRUCTION *(If applicable)*
a.	(4) DESCRIPTION *(Brief scope, size, cost, etc.)* ☐ Check if photos attached		(5) SPECIFIC ROLE	
b.	(1) TITLE	(2) LOCATION *(City and State)*	(3) YEAR COMPLETED: PROFESSIONAL SERVICES	(3) YEAR COMPLETED: CONSTRUCTION *(If applicable)*
	(4) DESCRIPTION *(Brief scope, size, cost, etc.)* ☐ Check if photos attached		(5) SPECIFIC ROLE	
c.	(1) TITLE	(2) LOCATION *(City and State)*	(3) YEAR COMPLETED: PROFESSIONAL SERVICES	(3) YEAR COMPLETED: CONSTRUCTION *(If applicable)*
	(4) DESCRIPTION *(Brief scope, size, cost, etc.)* ☐ Check if photos attached		(5) SPECIFIC ROLE	
d.	(1) TITLE	(2) LOCATION *(City and State)*	(3) YEAR COMPLETED: PROFESSIONAL SERVICES	(3) YEAR COMPLETED: CONSTRUCTION *(If applicable)*
	(4) DESCRIPTION *(Brief scope, size, cost, etc.)* ☐ Check if photos attached		(5) SPECIFIC ROLE	
e.	(1) TITLE	(2) LOCATION *(City and State)*	(3) YEAR COMPLETED: PROFESSIONAL SERVICES	(3) YEAR COMPLETED: CONSTRUCTION *(If applicable)*
	(4) DESCRIPTION *(Brief scope, size, cost, etc.)* ☐ Check if photos attached		(5) SPECIFIC ROLE	

DRAFT

F. EXAMPLE PROJECTS WHICH BEST ILLUSTRATE PROPOSED TEAM'S QUALIFICATIONS FOR THIS CONTRACT *(Present as many projects as requested by the agency, or 10 projects, if not specified. Complete one Section F for each project.)*	PAGE NUMBER	TOTAL PAGES

24. TITLE		
25. LOCATION *(City and State)*	26. PROJECT OWNER	

27. PROJECT OWNER'S POINT OF CONTACT		
a. NAME	b. TELEPHONE	d. E-MAIL ADDRESS
	c. FAX NUMBER	

28. BRIEF DESCRIPTION OF PROJECT AND RELEVANCE TO THIS CONTRACT

☐ CHECK IF PHOTOGRAPH(S) OF PROJECT ATTACHED *(If applicable)*

29. PROFESSIONAL SERVICES		30. CONSTRUCTION *(If applicable)*	
a. YEAR COMPLETED	b. FEE	a. YEAR COMPLETED	b. COST

31. FIRMS FROM SECTION C INVOLVED WITH THIS PROJECT

	(1) FIRM NAME	(2) FIRM LOCATION *(City and State)*	(3) ROLE
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			

32. AWARDS *(If applicable)*	33. ADDITIONAL PROJECT INFORMATION

DRAFT

G. KEY PERSONNEL PARTICIPATION IN EXAMPLE PROJECTS	PAGE NUMBER	TOTAL PAGES

34. NAMES OF KEY PERSONNEL (From Section E, Block 15)	35. ROLE IN THIS CONTRACT (From Section E, Block 16)	36. EXAMPLE PROJECTS LISTED IN SECTION F (Fill in "Example Projects Key" section below first, before completing table. Place "1" under project key number for project participation in any role; Place "2" under project key number for participation in same or similar role.)									
		1	2	3	4	5	6	7	8	9	10

37. EXAMPLE PROJECTS KEY

NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)	NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)
1		6	
2		7	
3		8	
4		9	
5		10	

H. ADDITIONAL INFORMATION	PAGE NUMBER	TOTAL PAGES

38. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS REQUIRED.

I. AUTHORIZED REPRESENTATIVE

The foregoing is a statement of facts.

39. SIGNATURE	40. DATE

41. NAME *(Print or type)*	42. TITLE *(Print or type)*

ARCHITECT-ENGINEER QUALIFICATIONS

1. SOLICITATION NUMBER *(If any)*

PART II - GENERAL QUALIFICATIONS

(If a firm has branch offices, complete for each specific branch office seeking work.)

2a. FIRM (OR BRANCH OFFICE) NAME		3. YEAR ESTABLISHED	4. DUNS NUMBER
2b. OPTIONAL ADDRESS LINE		5. OWNERSHIP	
2c. STREET		a. TYPE	
2d. CITY	2e. STATE / 2f. ZIP CODE	b. SMALL BUSINESS STATUS	
6a. POINT OF CONTACT NAME	6b. POINT OF CONTACT TITLE	7. NAME OF FIRM *(If block 3a is a branch office)*	
6c. TELEPHONE NUMBER	6d. E-MAIL ADDRESS		

8a. FORMER FIRM NAME(S) *(If any)*	8b. YR. ESTABLISHED	8c. DUNS NUMBER

9. EMPLOYEES BY DISCIPLINE

a. Function Code	b. Discipline	c. No. of Employees (1) FIRM	c. No. of Employees (2) BRANCH
	Total		

10. PROFILE OF FIRM'S EXPERIENCE AND ANNUAL AVERAGE REVENUE FOR LAST 5 YEARS

a. Profile Code	b. Experience	c. Revenue Index Number *(see below)*

11. ANNUAL AVERAGE PROFESSIONAL SERVICES REVENUES OF FIRM FOR LAST 3 YEARS

(Insert revenue index number shown at right)

a. Federal Work	
b. Non-Federal Work	
c. Total Work	

PROFESSIONAL SERVICES REVENUE INDEX NUMBER

1. Less than $100,000
2. $100,00 to less than $250,000
3. $250,000 to less than $500,000
4. $500,000 to less than $1 million
5. $1 million to less than $2 million
6. $2 million to less than $5 million
7. $5 million to less than $10 million
8. $10 million to less than $25 million
9. $25 million to less than $50 million
10. $50 million or greater

12. AUTHORIZED REPRESENTATIVE

The foregoing is a statement of facts.

a. SIGNATURE	b. DATE
c. NAME OF AUTHORIZED *(Print or type)*	d. TITLE *(Print or type)*

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 1583/P.L. 107–49

To designate the Federal building and United States courthouse located at 121 West Spring Street in New Albany, Indiana, as the ''Lee H. Hamilton Federal Building and United States Courthouse''. (Oct. 15, 2001; 115 Stat. 262)

H.R. 1860/P.L. 107–50

Small Business Technology Transfer Program Reauthorization Act of 2001 (Oct. 15, 2001; 115 Stat. 263)

H.J. Res. 42/P.L. 107–51

Memorializing fallen firefighters by lowering the American flag to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland. (Oct. 16, 2001; 115 Stat. 267)

H.J. Res. 51/P.L. 107–52

Approving the extension of nondiscriminatory treatment with respect to the products of the Socialist Republic of

Vietnam. (Oct. 16, 2001; 115 Stat. 268)

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