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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM201; Special Conditions No. 25–190–SC]

Special Conditions: Gulfstream Aerospace Corporation Model G–1159B; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Gulfstream Aerospace Corporation Model G–1159B airplanes modified by ElectroSonics. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of a Honeywell Dual Airdata Computer System that performs critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is October 24, 2001. Comments must be received on or before December 7, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM201, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: *Docket No. NM201.* Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Meghan Gordon, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2138; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM201.'' The postcard will be date stamped and returned to the commenter.

Background

On April 4, 2001, ElectroSonics, 4391 International Gateway, Columbus, Ohio, applied for a Supplemental Type Certificate (STC) to modify Gulfstream Aerospace Corporation Model G–1159B airplanes. The Gulfstream Aerospace Corporation Model G–1159B is a small transport category airplane. These airplanes are powered by two Rolls Royce Spey RB (163–25) 511–8 engines, with a maximum takeoff weight of 69,700 pounds. This airplane operates with a 2-pilot crew and can hold up to 19 passengers. The modification incorporates the installation of a Honeywell Dual Airdata Computer System. The Honeywell Dual Airdata Computer System is a replacement for the existing Analog Flight Instrumentation, while also providing additional functional capability and redundancy in the system. The avionics/electronics and electrical systems installed in this airplane have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, ElectroSonics must show that the Gulfstream Aerospace Corporation Model G–1159B airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A12EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations in the certification basis for the Gulfstream Aerospace Corporation G–1159B airplanes include:

- Civil Air Regulations (CAR) 4b, dated December 31, 1953, including Amendments 4b–1 thru 4b–14.
- Special Regulation SR450A.
- Special Conditions in ''Attachment A'' of FAA letter to Grumman dated September 27, 1965.
- 14 CFR (Code of Federal Regulations) 25.1325 (effective February 1, 1965).
- Section 25.175 (effective March 1, 1965), in lieu of CAR 4b.155(b).
- Section 36.7(d)(3)(ii).
- CAR 4b.450, cooling systems.
- Part 25, dated February 1, 1965, as amended by Amendments No. 25–2 through 25–8, 25–10, 25–12, 25–16 thru 25–22, 25–24, and 25–26.

If the Administrator finds that the applicable airworthiness regulations (part 25, as amended) do not contain adequate or appropriate safety standards for the Gulfstream Aerospace Corporation Model G–1159B airplanes modified by ElectroSonics, because of a novel or unusual design feature, special

conditions are prescribed under the provisions of 21.16.

In addition to the applicable airworthiness regulations and special conditions, these Gulfstream Aerospace Corporation Model G–1159B airplanes must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38, and become part of the airplane's type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should ElectroSonics apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the Gulfstream Aerospace Corporation Model G–1159B airplanes modified by ElectroSonics will incorporate the Honeywell Dual Airdata Computer System that will perform critical functions. This system may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Gulfstream Aerospace Corporation Model G–1159B airplanes modified by ElectroSonics. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown in accordance with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Gulfstream Aerospace Corporation Model G–1159B airplanes modified by ElectroSonics. Should ElectroSonics apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Gulfstream Aerospace Corporation Model G–1159B airplanes modified by ElectroSonics. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for Gulfstream Aerospace Corporation Model G–1159B airplanes modified by ElectroSonics.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on October 24, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–27987 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM199; Special Conditions No. 25–188–SC]

Special Conditions: Boeing 747–200/–300 Series Airplanes; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Boeing Model 747–200/–300 series airplanes modified by Hollingsead International, Inc. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of new Liquid Crystal Flight Instruments as Attitude Directional Indicators (ADI), the Horizontal Situation Indicators (HSI) and Engine Display Interface System (EDIS). The liquid crystal flight instruments will utilize electrical and electronic systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is October 25, 2001. Comments must be received on or before December 24, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM199, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM199. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2799; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay certification of the airplane and thus delivery of the affected aircraft. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the rules docket number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM199.'' The postcard will be date stamped and returned to the commenter.

Background

On October 13, 1997, Hollingsead International, Inc., 7416 Hollister Avenue, Goleta, California 93117–2538, applied for a Supplemental Type Certificate (STC) for the Boeing Model 747–200/–300 series airplanes. The Boeing Model 747–200/–300 series airplanes are equipped with four CF650E2 turbofan engines. The aircraft have a crew of three with additional seating for one, consisting of a jump seat in the cockpit. The aircraft are operated by KLM Royal Dutch airlines in ''freighter,'' ''combi,'' and ''full

passenger'' configurations. The Boeing 747–200/–300 airplanes will incorporate Smiths Industries 5–ATI liquid crystal flight instruments. The modified airplanes are scheduled for certification in November 2001.

The functions of the liquid crystal flight instruments can be susceptible to disruption of both command and response signals as a result of electrical and magnetic interference caused by HIRF external to the airplane. This disruption of signals could result in loss of critical flight displays and annunciations, or could present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Hollingsead International, Inc, must show that the Boeing 747–200/–300 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A20WE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations included in the certification basis for the Boeing Model 747–200/–300 series airplanes include 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–91.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Boeing Model 747–200/300 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 747–200/–300 series airplanes must comply with the fuel vent and exhaust emission requirement of 14 CFR part 34 and the noise certification requirement of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the airplane's type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design features, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Boeing Model 747–200/–300 series airplanes will incorporate the Smiths Industries 5-ATI liquid crystal flight instruments as ADI, HSI and EDIS, which perform critical functions. The liquid crystal flight instruments contain electronic equipment for which the current airworthiness standards (14 CFR part 25) do not contain adequate or appropriate safety standards that address protecting this equipment from the adverse effects of HIRF. These instruments may be vulnerable to HIRF external to the airplane. Accordingly, these instruments are considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Boeing Model 747–200/–300 airplanes modified to include the Smiths Industries 5–ATI liquid crystal flight instruments as ADI, HSI and EDIS. These special conditions will require that these instruments, which perform critical functions, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown in accordance with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200

Frequency	Field strength (volts per meter)	
	Peak	Average
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 747–200/–300 series airplanes modified by Hollingsead International, Inc. to include the Smiths Industries 5–ATI liquid crystal flight instruments, as ADI, HSI and EDIS. Should Hollingsead International apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A20WE to incorporate the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the Boeing Model 747–200/–300 series airplanes modified by Hollingsead International, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplanes.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Boeing Model 747–200/–300 series airplanes modified by Hollingsead International, Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions*: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on October 25, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–27986 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–04–AD; Amendment 39–12495; AD 2001–22–16]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 1900, 1900C (C–12J), and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 95–02–18, which applies to certain Raytheon Aircraft Company (Raytheon) Beech Models 1900, 1900C (C–12J), and 1900D airplanes. AD 95–02–18 requires you to repetitively inspect the engine truss assemblies for cracks, repair or replace any cracked engine truss assembly, and install reinforcement doublers. This AD requires engine truss assembly replacement, periodic inspections and replacements, and the eventual incorporation of a cowling support installation kit as terminating action. The repetitive inspections of AD 95–02–18 will be retained until mandatory engine truss assembly replacement. This AD is the result of continued reports of fatigue cracks found on engine trusses on airplanes in compliance with AD 95–02–18. The actions specified by this AD are intended to detect and correct cracked engine truss assemblies, which could result in failure of the engine truss assembly and consequent loss of airplane control.

DATES: This AD becomes effective on December 17, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 17, 2001.

ADDRESSES: You may obtain the service information referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–04–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: David L. Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4129; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA taken any action on the engine truss assemblies of Raytheon Beech Models 1900, 1900C (C–12J), and 1900D airplanes to this point? Continued problems with fatigue cracking of the engine truss assemblies on Raytheon Beech Models 1900, 1900C (C–12J), and 1900D airplanes caused FAA to issue AD 95–02–18, Amendment 39–9136 (60 FR 6652, February 3, 1995). This AD currently requires the following:

—Repetitive inspections of the engine truss assemblies for cracks;

—Repair or replacement of any cracked engine truss assembly; and

—Installation of reinforcement doublers.

What has happened since AD 95–02–18 to initiate this action? The FAA continues to receive reports of engine truss fatigue cracks on Raytheon Beech Models 1900, 1900C (C–12J), and 1900D airplanes. The reports reference airplanes that are in compliance with AD 95–02–18.

The fatigue cracks are developing as a result of operational stresses in joints, welded bracketry, and linoil holes sealed by drive screws.

Has FAA taken any action to this point? The FAA 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 Raytheon Beech Models 1900, 1900C (C–12J), and 1900D airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 11, 2001 (66 FR 36215). The NPRM proposed to supersede AD 95–02–18. The NPRM also proposed to require engine truss assembly replacement, periodic inspections and replacements, and the eventual incorporation of a cowling support installation kit as terminating action. The repetitive inspections of AD 95–02–18 would be retained until mandatory engine truss assembly replacement.

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 236 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 following actions:

	Engine truss replacement	Drive screw inspection and replacement	Cowling support kit installation	Placard Installation
Number of airplanes affected.	12	236	210	234
Cost per airplane: Workhours + parts costs.	34 workhours × $60 per hour + $6,000 (average) for parts = $8,040 per airplane.	4 workhours × $60 per hour + $12 for parts = $252 per airplane.	6 workhours × $60 per hour + $35 for parts = $395 per airpalne.	1 workhour × $60 per hour + $5 for parts = $65 per airplane.
Fleet cost: Cost per airplane × number of airplanes.	$8,040 × 12 airplanes = $96,480.	$252 × 236 airplanes = $59,472.	$395 × 210 airplanes = $82,950.	$65 × 234 airplanes = $15,210.

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 removing Airworthiness Directive (AD) AD 95–02–18, Amendment 39–9136 (60 FR 6652, February 3, 1995), and by adding a new AD to read as follows:

2001–22–16 Raytheon Aircraft Company (Beech Aircraft Corporation formerly held Type Certificate (TC) No. A–24CE): Amendment 39–12495; Docket No. 2001–CE–04–AD; Supersedes AD 95–02–18, Amendment 39–9136.

(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 No.
Beech Model 1900	UA–2 and UA–3.
Beech Model 1900C	UB–1 through UB–74 and UC–1 through UC–174.
Beech Model 1900C (C–12J)	UD–1 through UD–6.
Beech Model 1900D	UE–1 through UE–302.

(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 cracked engine truss assemblies, which could result in failure of the engine truss assembly and consequent loss of airplane control.

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

Actions	Compliance	Procedures
(1) if you do not have a part number (P/N) 129–910047–1 129–910047–13, or 129–910047–17 engine truss assembly (or FAA-approved equivalent P/N), installed, accomplish the following: (i) Inspect the engine truss assembly for cracks and replace any cracked truss with a P/N truss specified in paragraph (d)(1)(ii) of this AD; and (ii) Replace the engine truss assembly with a P/N 129–910047–1, 129–910047–13, or 129–910047–17 assembly (or FAA-approved equivalent P/N)	Inspect in accordance with the schedule outlined in the Appendix to this AD (taken from AD 95–02–18, as specified in Raytheon Aircraft Mandatory Service Bulletin No. 2255, Revision 10, Revised, June, 1999). Replace within the next 100 hours time-in-service (TIS) after December 17, 2001 (the effective date of this AD) if the truss is not cracked and prior to further flight if the truss is cracked.	Inspect and replace in accordance with the instructions in Raytheon Aircraft Mandatory Service Bulletin No. 2255. Revision 10, Revised, June, 1999. Accomplishing the inspection (only) using a previous revision to this service bulletin is acceptable.
(2) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), inspect for linoil hole mislocation and cracks in Area A as depicted in the referenced service information and replace the engine truss assembly if any mislocated hole or crack is found during any inspection	Inspect upon accumulating 100 hours TIS on the engine truss assembly (or within 25 hours TIS after December 17, 2001 (the effective date of this AD), whichever occurs later, unless already done, and thereafter at intervals not to exceed 100 hours TIS. Accomplish any necessary engine truss assembly replacement prior to further flight where any mislocated hole or crack is found.	Accomplish inspections and replacements in accordance with Part I of the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April, 1999.
(3) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), accomplish the following: (i) Inspect the engine cowling support bracket for cracks and rework any cracked engine crowling support bracket; and (ii) Install Kit No. 129–9017–1 reinforcements on the engine cowling support bracket. The inspections required by paragraph (d)(3)(i) of this AD are no longer necessary when Kit No. 129–9017–1 is incorporated	Inspect upon accumulating 200 hours TIS on the engine truss assembly or within 25 hours TIS after December 17, 2001 (the effective date of this AD), whichever occurs later, unless already done, and thereafter at intervals not to exceed 200 hours TIS. Accomplish any necessary engine cowling support rework prior to further flight where any cracked bracket is found. Install the engine cowling support bracket reinforcements upon accumulating 1,200 hours TIS on the engine truss assembly or within the next 100 hours TIS after December 17, 2001 (the effective date of this AD), whichever occurs later.	Accomplish inspections, repairs, and installations in accordance with Part III of the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April, 1999.
(4) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), replace all remaining linoil drive screws (those not in Area A). The inspections required by paragraph (d)(2) of this AD are no longer required when these screws are replaced	Upon accumulating 8,000 hours TIS on the engine truss assembly or at the next engine truss assembly removal, whichever occurs later.	Accomplish these replacements in accordance with Part II of the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April, 1999.
(5) For airplanes equipped with a P/N 129–910047–1 or 129–910047–13 engine truss assembly (or FAA-approved equivalent P/N), install a P/N 129–910047–15 truss identification placard on the engine truss assembly	Within 12 months after December 17, 2001 (the effective date of this AD) or upon installation of a P/N 129–910047–1 or 129–910047–13 engine truss assembly, whichever occurs later.	Accomplish this installation in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Aircraft Service Bulletin SB.71–3024, Issued: September, 1997.
(6) Do not install, on any affected airplane, an engine truss assembly that is not P/N 129-910047–1, 129–910047–13, or 129–910047–17 (or FAA-approved equivalent P/N)	As of December 17, 2001 (the effective date of this AD).	Not Applicable.

(e) *Can I comply with this AD in any other way*?

(1) You may use an alternative method of compliance or adjust the compliance time if:

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

(ii) The Manager, Wichita Aircraft Certification Office(ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 95–02–18, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

Note: 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 David L. Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4129; facsimile: (316) 946–4407.

(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 Raytheon Aircraft Mandatory Service Bulletin No. 2255. Revision 10, Revised, June, 1999, Raytheon Aircraft Mandatory Service Bulletin SB 71–3144, Revision 1, Revised: April, 1999, and Raytheon Aircraft Service Bulletin SB.71–3024, Issued: September, 1997. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. You may view this information at 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) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 95–02–18, Amendment 39–9136.

(j) *When does this amendment become effective?* This amendment becomes effective on December 17, 2001.

Appendix to Docket No. 2001–CE–04–AD

The following is the compliance schedules for the inspections required in this AD. These are duplicated from AD 95–02–18, Amendment 39–9136:

1. For all affected airplanes having engine truss P/N 129–910032–79 installed, initially and repetitively inspect the engine truss for cracks at the weld joints in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB 2255, Revision VI, dated August 1994, at the times specified in the following chart:

Models	Area specified in figure 1 of Beech SB No. 2255, Rev. VI	Initial inspection	Repetitive inspections
1900 and 1900C	A	Upon accumulating 1,400 hours TIS*	Every 100 hours TIS.
1900 and 1900C	B and C	Upon accumulating 3,200 hours TIS*	Every 100 hours TIS.
1900D	A	Upon accumulating 3,200 hours TIS*	Every 450 hours TIS.
1900D	B and C	Upon accumulating 3,200 hours TIS*	Every 3,000 hours TIS.

*Or within the next 100 hours TIS after March 25, 1995 (the effective date of AD 95–02–18), whichever occurs later.

2. For all Models 1900 and 1900C airplanes having engine truss P/N 118–9100–25–37, P/N 118–910025–121, P/N 114–910025–1 or P/N 118–910025–1, initially and repetitively inspect the engine truss for cracks at the weld joints in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin (SB) 2255, Revision VI, dated August 1994, at the times specified in the following chart:

Area specified in Figure 1 of Beech SB N. 2255, Rev. VI	Initial inspection	Repetitive inspections
A	Upon accumulating 1,400 hours TIS*	Every 100 hours TIS.
B	Upon accumulating 1,400 hours TIS*	Every 600 hours TIS.
C	Upon accumulating 1,400 hours TIS*	Every 3,000 hours TIS.

*Or within the next 100 hours TIS after March 25, 1995 (the effective date of AD 95–02–18), whichever occurs later.

Issued in Kansas City, Missouri, on October 26, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–27651 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–24–AD; Amendment 39–12494; AD 2001–22–15]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD requires you to inspect the cargo doors to identify front and rear end frames with plain lightening holes and install reinforcing plates on any frame with plain lightening holes. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are

intended to prevent cracking at the edges of the unflanged lightening holes, which could result in major structural damage to the airplane. Such damage could result in possible loss of control of the airplane.

DATES: This AD becomes effective on December 26, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 26, 2001.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: 41 41 619 63 19; facsimile: 41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–24–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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on all Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports that, during production, some PC–12 and PC–12/45 airplanes were equipped with cargo doors that do not have reinforcing flanges on the lightening holes in the front and rear end of the cargo door frames.

What is the potential impact if FAA took no action? If not detected and corrected, cracking at the edges of the unflanged lightening holes could result in major structural damage to the airplane. Such damage could result in possible 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 all Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 22, 2001 (66 FR 44093). The NPRM proposed to require you to inspect the cargo doors to identify front and rear end frames with plain lightening holes; and install reinforcing plates on any frame with plain lightening holes.

The Swiss AD and the manufacturer's service information applies to manufacturer serial numbers (MSN) 301 through 370 and all part-number (P/N) 552.30.12.051 and P/N 552.30.12.052, held as spares. We are expanding the applicability of this AD to all serial numbered airplanes. We are expanding the inspection and installation actions to cover MSN 101 through MSN 370, instead of MSN 301 through MSN 370, because these cargo doors may have been installed on MSN 101 through MSN 370 through field approval or other methods. Since cargo doors, part-number P/N 552.30.12.051 and P/N 552.30.12.052, held as spares, may be installed on airplanes not covered by the applicability of the service information, the cargo doors on all serial numbered airplanes will have to be inspected and modified if necessary, prior to installation.

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 230 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
1 workhour × $60 per hour = $60	No parts required for the inspection	$60	$13,800.

We estimate the following costs to accomplish any necessary modifications that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need such modification:

Labor cost	Parts cost	Total cost per airplane
2 workhours × $60 per hour = $120	Provided by the manufacturer free of charge	$120.

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:

2001–22–15 Pilatus Aircraft Ltd.: Amendment 39–12494; Docket No. 2001–CE–24–AD.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category.

(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 prevent cracking at the edges of the unflanged lightening holes, which could result in major structural damage to the airplane. Such damage could result in possible loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) For manufacturer serial numbers (MSN) 101 through 370, inspect the front and rear frames of the cargo door for lightening holes with plain rims.	Within the next 50 hours time-in-service (TIS) after December 26, 2001 (the effective date of this AD).	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 52–004, dated April 20, 2001.
(2) If, during the inspection required in paragraph (d)(1) of this AD, a plain rim is found, install a reinforcing plate.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 52–004, dated April 20, 2001.
(3) For all serial numbered airplanes, do not install any cargo door, part-number (P/N) 552.30.12.051 or P/N 552.30.12.052 (or FAA-approved equivalent part number), unless it has been inspected as required in paragraph (d)(1) of this AD and modified as required in paragraph (d)(2) of this AD.	As of December 26, 2001 (the effective date of this AD).	In accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 52–004, dated April 20, 2001.

(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 Doug* Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

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

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Pilatus Service Bulletin No. 52–004, dated April 20, 2001. 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 Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021. You 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 December 26, 2001.

Note 2: The subject of this AD is addressed in Swiss AD HB 2001–389, dated June 25, 2001.

Issued in Kansas City, Missouri, on October 26, 2001.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–27652 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30278; Amdt. No. 432]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, December 27, 2001.

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 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace.

In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment 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 95

Airspace, Navigation (air).

Issued in Washington, D.C. on November 1, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, December 27, 2001.

PART 95—[Amended]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 432 effective date: December 27, 2001]

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6003 VOR Federal Airway 3 is Amended to Read in Part		
Brunswick, GA VORTAC	*Broun, GA FIX	**2,000
*11,000–MRA		
**1,500–MOCA		
Broun, GA FIX	*Harps, GA FIX	2,200
*3,000–MRA		
Harps, GA FIX	Savannah, GA VORTAC	*2,000
*1,500–MOCA		
§ 95.6037 VOR Federal Airway 37 is Amended to Read in Part		
Brunswick, GA VORTAC	*Broun, GA FIX	**2,000
*11,000–MRA		
**1,500–MOCA		
Broun, GA FIX	*Harps, GA FIX	2,200
*3,800–MRA		
Harps, GA FIX	Savannah, GA VORTAC	*2,000
*1,500–MOCA		
§ 95.6078 VOR Federal Airway 78 is Amended to Read in Part		
Zable, MI FIX	Banjo, MI FIX	*5,000
*2,900–MOCA		
§ 95.6133 VOR Federal Airway 133 is Amended to Read in Part		
Whipp, MI FIX	*Ladin, MI FIX	**5,000
*5,000–MRA		
**2,800–MOCA		
Ladin, MI FIX	Borin, MI FIX	*5,000
*2,700–MOCA		
Borin, MI FIX	Traverse City, MI VORTAC	*5,000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 432 effective date: December 27, 2001]

From	To	MEA
*2,500–MOCA Traverse City, MI VORTAC *2,700–MOCA	Escanaba, MI VORTAC	*5,000
§ 95.6184 VOR Federal Airway 184 is Amended to Read in Part		
Delro, PA FIX *3,900–MOCA	Modena, PA VORTAC	*10,000
§ 95.6198 VOR Federal Airway 198 is Amended to Read in Part		
Seeds, TX FIX *1,800–MOCA	Wemar, TX FIX	*2,500
§ 95.6212 VOR Federal Airway 212 is Amended to Read in Part		
Seeds, TX FIX *1,800–MOCA	Wemar, TX FIX	*2,500
§ 95.6213 VOR Federal Airway 213 is Amended to Read in Part		
Sparta, NJ VORTAC *3,200–MOCA	Flosi, NY FIX	*4,000
Flosi, NY FIX *4,000–MOCA	Weets, NY FIX	*5,500
§ 95.6215 VOR Federal Airway 215 is Amended to Read in Part		
White Cloud, MI VORTAC *5,000–MRA	*Ladin, MI FIX	4,000
Ladin, MI FIX *5,000–MRA	*Carga, MI FIX	4,000
§ 95.6222 VOR Federal Airway 222 is Amended to Read in Part		
Stonewall, TX VORTAC *4,000–MOCA	Marcs, TX FIX	*4,500
§ 95.6233 VOR Federal Airway 233 is Amended to Read in Part		
Mount Pleasant, MI VOR/DME *5,000–MRA	*Carga, MI FIX	5,500
Carga, MI FIX	Gaylord, MI VOR/DME	3,000
§ 95.6249 VOR Federal Airway 249 is Amended to Read in Part		
Sparta, NJ VORTAC *3,200–MOCA	Flosi, NY FIX	*4,000
Flosi, NY FIX *4,000–MOCA	Weets, NY FIX	*5,500
§ 95.6289 VOR Federal Airway 289 is Amended to Read in Part		
Honee, TX FIX *1,900–MOCA	Lufkin, TX VORTAC	*3,000
§ 95.6297 VOR Federal Airway 297 is Amended to Read in Part		
Banjo, MI FIX *2,900–MOCA	Zable, MI FIX	*5,000
§ 95.6358 VOR Federal Airway 358 is Amended to Read in Part		
San Antonio, TX VORTAC *2,800–MOCA	Guada, TX FIX	*4,000
Guada, TX FIX	Stonewall, TX VORTAC	4,000
Stonewall, TX VORTAC *3,200–MOCA	Lampasas, TX VORTAC	*3,800
§ 95.6474 VOR Federal Airway 474 is Amended to Read in Part		
Delro, PA FIX	Modena, PA VORTAC	*10,000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 432 effective date: December 27, 2001]

From	To	MEA
*3,900–MOCA		
§ 95.6556 VOR Federal Airway 556 is Amended to Read in Part		
Junction, TX VORTAC	Stonewall, TX VORTAC	4,000
Stonewall, TX VORTAC	Marcs, TX FIX	*4,500
*4,000–MOCA		
Marcs, TX FIX	Seeds, TX FIX	*7,500
*1,900–MOCA		
Seeds, TX FIX	Wemar, TX FIX	*2,500
*1,800–MOCA		
§ 95.6568 VOR Federal Airway 568 is Amended to Read in Part		
San Antonio, TX VORTAC	Guada, TX FIX	*4,000
*2,800–MOCA		
§ 95.6579 VOR Federal Airway 579 is Amended to Read in Part		
Cross City, FL VORTAC	Valdosta, GA VOR/DME	2,000
Tift Myers, GA VOR	Vienna, GA VORTAC	2,100

[FR Doc. 01–28002 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–022]

RIN 2115–AE47

Drawbridge Operation Regulation; Lake Pontchartrain, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulation for the draw of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain between Metairie, Jefferson Parish and Mandeville, St. Tammany Parish, Louisiana. The rule allows the dual bridges to remain closed to navigation during the morning and afternoon rush hours while still requiring three hours notification to open on signal at all other times.

DATES: This rule is effective December 7, 2001.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket and are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 501 Magazine Street, New Orleans, Louisiana 70130–3396, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, at the address given above or telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 16, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation, Lake Pontchartrain, LA in the **Federal Register** (66 FR 15373). We received three letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The bascule span of the dual bridges of the Greater New Orleans Expressway Commission Causeway across Lake Pontchartrain presently opens on signal if at least three hours notice is given. The Greater New Orleans Expressway Commission has requested a change in the operating schedule of the dual bridges to allow the draw to remain closed during peak vehicular traffic periods. Approximately 15,000 vehicles cross the dual bridges in each direction daily. Of the nearly 15,000 vehicles that cross the southbound bridge from St. Tammany Parish to Jefferson Parish, approximately 50% of these vehicles cross this bridge between the hours of 5:30 a.m. and 9:30 a.m. Of the nearly 15,000 vehicles that cross the northbound bridge from Jefferson Parish to St. Tammany Parish, approximately 50% of these vehicles cross this bridge between the hours of 3 p.m. and 7 p.m. During these peak traffic periods, an opening of the draw can cause traffic to back up approximately four to five miles.

Tender logs for the past year indicate that only six vessels have required the draw to open during these times.

Discussion of Comments and Changes

Three letters were received in response to the NPRM. National Mariner Fisheries Service offered no objections to the proposed change. Pontchartrain Materials offered no objections to the proposed project; however, they did offer comments regarding delays to vessels in distress. The Coast Guard explained that the drawbridge is required to open for vessels in distress. The U. S. Fish and Wildlife Service officer no objections to the proposed changes.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule allows vessels ample opportunity to transit this waterway with proper notification before and after the peak vehicular traffic periods. According to the vehicle traffic surveys provided by the applicant, these periods occur between 5:30 a.m. and 9:30 a.m. and between 3 p.m. and 7 p.m.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that this rule would not have implications for federalism under that Order. No comments were received with regards to federalism during the NPRM comment period.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule does not impose an unfunded mandate. No comments were received with regards to unfunded mandates during the NPRM comment period.

Taking of Private Property

This 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. No comments were received with regards to private property during the NPRM comment period.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No comments were received with regards to civil justice reform during the NPRM comment period.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(e), of Commandant Instruction M16475.lD, this rule be categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard amends Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In 117.467, paragraph (b) is revised to read as follows:

117.467 Lake Pontchartrain.

* * * * *

(b) The draw of the Greater New Orleans Expressway Commission Causeway shall open on signal if at least three hours notice is given; except that, the draw need not be opened for the passage of vessels Monday through Friday except Federal holidays from 5:30 a.m. to 9:30 a.m. and from 3 p.m. until 7 p.m. The draw will open on signal for any vessel in distress or vessel waiting immediately following the closures listed above.

Dated: October 25, 2001.

Roy J. Casto,

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

[FR Doc. 01–27875 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Prince William Sound 01–005]

RIN 2115–AA97

Security Zones; Prince William Sound Captain of the Port Zone, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones of 200 yards around all tank vessels greater than 20,000 deadweight tons (DWT) in the Captain of the Port Zone, Prince William Sound, Alaska. These vessel-centered security zones are needed to

protect tank vessels from damage or injury from sabotage, destruction or other subversive acts. Entry into these security zones is prohibited unless specifically authorized by the Captain of the Port, Prince William Sound, Alaska, however, tank vessel escort, line handling, and pilot vessels are authorized to enter these moving security zones to carryout their functions associated with the movement of tank vessels to and from the Trans-Alaska Pipeline Valdez Terminal Complex.

DATES: This regulation is effective from 6 p.m. September 15, 2001 through June 1, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Prince William Sound 01–005] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, PO Box 486, Valdez, Alaska 99686, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT V. J. Kammer, U.S. Coast Guard Marine Safety Office, PO Box 486, Valdez, Alaska 99686, (907) 835–7229.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In accordance with 5 U.S.C. 553 (b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. The Coast Guard is taking this action for the immediate protection of the national security interests in light of the terrorist acts perpetrated on September 11, 2001. Also, in accordance with 5 U.S.C. 553 (d)(3), the Coast Guard finds good cause to exist for making this regulation effective less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to provide for the safety of tank vessels calling at the Trans-Alaska Pipeline Valdez Terminal complex in Valdez, Alaska.

Discussion of the Regulation

The Coast Guard is establishing temporary security zones around all tank vessels greater than 20,000 deadweight tons (DWT) while transiting, mooring, unmooring, or loading within the Prince William Sound Captain of the Port (COTP) Zone, defined in 33 CFR 3.85–20 (b) as encompassing waters within the boundary that starts at Cape Puget at 148°26′ W, 59°56.06′ N; and proceeds northerly to 61°30′ N; thence easterly to the United States-Canadian boundary; thence southerly along the United States-Canadian boundary to 60°18.7′ N; thence southwesterly to the sea at 60°01.3′ N, 142°00′ W; thence southerly along 142°00′ W to the outermost boundary of the Exclusive Economic Zone (EEZ); thence along the outermost boundary of the EEZ to 148°26′ N; thence northerly along 148°26′ W to the place of origin at Cape Puget. These 200-yard security zones are activated when the subject vessels enter the Prince William Sound COTP Zone. These security zones are necessary to protect the subject tank vessels transiting the Prince William Sound COTP Zone from damage or injury from sabotage, destruction or other subversive acts.

Regulatory Evaluation

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

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The number of small entities impacted by this rule is expected to be minimal because of the short duration of this rule and the transitory nature of these moving security zones.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not

an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16745.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T17–005 is added to read as follows:

§ 165.T17–005 Security zones; Captain of the Port Zone, Prince William Sound, Alaska.

(a) *Location.* The following are security zones: all waters within 200 yards of any tank vessel greater than 20,000 deadweight tons (DWT) while in the Prince William Sound Captain of the Port (COTP) Zone. The Prince William Sound COTP Zone encompasses all waters area within the boundary which starts at Cape Puget at 148°26′ W. longitude, 59°56.06′ N. latitude, and proceeds northerly to 61°30′ N. latitude; thence easterly to the United States-Canadian boundary; thence southerly along the United States-Canadian boundary to 60°18.7′ N, latitude; thence southwesterly to the sea at 60°01.3′ N, latitude, 142°00′ W, longitude; thence southerly along 142°00′ W, longitude to the outermost boundary of the Exclusive Economic Zone (EEZ) (as defined in § 2.05–35 of this chapter); thence along the outermost boundary of the EEZ to 148°26′ N, longitude; thence northerly along 148°26′ W, longitude, to the place of origin at Cape Puget at 59°56.06′ N, latitude. These security zones are necessary to protect tank vessels transiting within the Prince William Sound COTP Zone from damage or injury from sabotage, destruction or other subversive acts.

(b) *Effective dates.* This section is effective from 6 p.m. September 15, 2001 through June 1, 2002.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(d) *Regulations.*

(1) The general regulations governing security zones contained in 33 CFR 165.33 apply.

(2) Tank vessel escort tugs, line handling tugs, and pilot vessels are authorized entry into the moving security zone to carryout their functions associated with the movement of tank vessels to and from the Trans-Alaska Pipeline Valdez Terminal complex.

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

Dated: September 23, 2001.

P.M. Coleman,

Commander, U.S. Coast Guard, Captain of the Port, Prince William Sound, Alaska.

[FR Doc. 01–27876 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Prince William Sound 01–004]

RIN 2115–AA97

Security Zone; Port Valdez, AK

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for Port Valdez, Alaska. The security zone encompasses the waters of Port Valdez north and east of Middle Rock, excluding the waters within the Alyeska Marine Terminal security zone. This security zone is necessary to protect the facilities and vessels transiting within Port Valdez from damage or injury from sabotage, destruction or other subversive acts. Vessels may not anchor, lay to or otherwise loiter in this security zone unless specifically authorized by the Captain of the Port, Prince William Sound, Alaska.

DATES: This regulation is effective from 6 p.m. September 15, 2001 through June 1, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Prince William Sound 01–004] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, PO Box 486, Valdez, Alaska 99686, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT V.J. Kammer, U.S. Coast Guard Marine Safety Office Valdez, Alaska, (907) 835–7229.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In accordance with 5 U.S.C. 553 (b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. The Coast Guard is taking this action for the protection of the national security interests in light of the terrorist acts perpetrated on September 11, 2001. Also, in accordance with 5 U.S.C. 553 (d)(3), the Coast Guard finds good cause

to exist for making this regulation effective less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to provide for the safety of the Port of Valdez.

Discussion of the Regulation

The Coast Guard is establishing a temporary security zone for Port Valdez, Alaska. This security zone is necessary to protect the facilities and vessels transiting within Port Valdez from damage or injury from sabotage, destruction or other subversive acts. The geographic area covered by this regulation is within the area defined in 33 CFR 165.1704(a) and encompasses the waters of Port Valdez north and east of a line drawn 307 degrees True and 127 degrees True from Middle Rock (61°04.7′ N, 146°39.3′ W), excluding the waters within the Alyeska Marine Terminal security zone defined in § 165.T17–003 of this part published in this same issue of the **Federal Register**.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Economic impact is expected to be minimal because of the short duration this rule is in effect, the season in which it is effect, and vessels are permitted in the zone by the COTP on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The number of small entities impacted by this rule is expected to be minimal because of the short duration that this rule is in effect. Moreover, the Captain of the Port will consider on a case-by-case basis whether an entity can enter this zone; therefore, it is likely that very few, if any, small entities will be impacted by this rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16745.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T17–004 is added to read as follows:

§ 165.T17–004 Security zone; Port Valdez.

(a) *Location.* The following is a security zone: All waters of Port Valdez, Alaska north and east of a line drawn 307 degrees True and 127 degrees True from Middle Rock (61°04.7′ N, 146°39.3′ W), excluding the waters within the Alyeska Marine Terminal security zone defined in § 165.T17–003 of this part. This security zone is necessary to protect the facilities and vessels transiting within Port Valdez from damage or injury from sabotage, destruction or other subversive acts.

(b) *Effective dates.* This section is effective from 6 p.m. September 15, 2001 through June 1, 2002.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(d) *Regulations.* (1) The general regulations governing security zones contained in 33 CFR 165.33 apply.

(2) Tank vessels directly transiting to the Alyeska Marine Terminal (terminal) engaged in the movement of oil from the terminal or fuel to the terminal and vessels used to provide assistance or support to the tank vessels directly transiting to the terminal, or to the terminal itself, and that have reported their movements to the Vessel Traffic Service may operate as necessary to ensure safe passage of tank vessels to and from the terminal.

(3) Other Vessels may transit to and from Valdez Narrows directly to and from the port facilities of the city of Valdez, Alaska. These Vessels are required to transit using the waters of Port Valdez north of 61°06.8′ N latitude when east of 146°32′ W longitude.

(4) No person or vessel may anchor, lay to or otherwise loiter in this Security Zone without the permission of the Captain of the Port, Prince William Sound, Alaska.

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

Dated: September 15, 2001.

P.M. Coleman,

Commander, U.S. Coast Guard, Captain of the Port, Prince William Sound, Alaska.

[FR Doc. 01–27873 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Prince William Sound 01–003]

RIN 2115–AA97

Security Zone; Trans-Alaska Pipeline Valdez Terminal Complex, Valdez, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around the Trans-Alaska Pipeline (TAPS) Valdez Terminal Complex in Valdez, Alaska. The boundaries of the zone encompass all waters approximately one mile north and east and two miles west of all terminal berths. This security zone is necessary to protect the TAPS terminal and TAPS tank vessels from damage or injury from sabotage, destruction or other subversive acts. Entry into this security zone is prohibited unless specifically authorized by the Captain of the Port, Prince William Sound, Alaska.

DATES: This regulation is effective from 6 p.m. September 15, 2001 through June 1, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Prince William Sound 01–003] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, PO Box 486, Valdez, Alaska 99686, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT V.J. Kammer, U.S. Coast Guard Marine Safety Office Valdez, Alaska, (907) 835–7229.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In accordance with 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. The Coast Guard is taking this action for the immediate protection of the national security interests in light of terrorist acts perpetrated on September 11, 2001. Also, in accordance with 5 U.S.C. 553(d)(3), the Coast Guard finds good cause to exist for making this regulation effective less than 30 days after publication in the **Federal Register**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to provide for the safety of the TAPS terminal and TAPS tank vessels.

Discussion of the Regulation

The Coast Guard is establishing a temporary security zone around the TAPS terminal, Port Valdez, Valdez, Alaska. This security zone is necessary to protect the TAPS terminal and TAPS tank vessels transiting to, from and within Port Valdez from damage or injury from sabotage, destruction or other subversive acts. The security zone encompasses all waters approximately one mile north and east and two miles west of all terminal berths. The specific boundaries are enclose waters within a line beginning on the southern shoreline of Port Valdez at 61°04.8′ N, 146°29.4′ W; thence northerly to 61°06.5′ N, 146°29.4′ W; thence west to 61°06.5′ N, 146°19.7′ W; thence south to 61°05.0′ N, 146°19.7′ W; thence east along the shoreline and including the area 2000 yards inland along the shoreline to the starting point at 61°04.8′ N, 146°29.4′ W. This security zone includes the current 200-yard safety zone as set forth in 33 CFR 165.1701.

Regulatory Evaluation

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

minimal because of the short duration of this rule and the season in which it is in effect.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The number of small entities impacted by this rule is expected to be minimal because of the short duration of the rule. The entities most likely affected are commercial and native subsistence fishermen. The time frame this rule is in effect does not cover any commercial harvests of fish in the area delineated by this rule; therefore, it is likely that very few, if any, small entities will be impacted by this rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16745.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T17–003 is added to read as follows:

§ 165.T17–003 Security zone; Trans-Alaska Pipeline Valdez Terminal Complex, Valdez, Alaska.

(a) *Location.* The following is a security zone: all waters encompassed by a line beginning on the southern shoreline of Port Valdez at 61°04.8′ N, 146°29.4′ W; thence northerly to 61°06.5′ N, 146°29.4′ W; thence west to 61°06.5′ N, 146°19.7′ W; thence south to 61°05.0′ N, 146°19.7′ W; thence east along the shoreline and including the area 2000 yards inland along the shoreline to the starting point at 61°04.8′ N, 146°29.4′ W. These boundaries encompass approximately one mile north and east and two miles west of all terminal berths. This security zone is necessary to protect the TAPS terminal and TAPS vessels from damage or injury from sabotage, destruction or other subversive acts.

(b) *Effective dates.* This section is effective from 6 p.m. September 15, 2001 through June 1, 2002.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

(d) *Regulations.* (1) The general regulations governing security zones contained in 33 CFR 165.33 apply.

(2) Tank vessels transiting directly to the TAPS terminal complex, engaged in the movement of oil from the terminal

or fuel to the terminal, and vessels used to provide assistance or support to the tank vessels directly transiting to the terminal, or to the terminal itself, and that have reported their movements to the Vessel Traffic Service may operate as necessary to ensure safe passage of tank vessels to and from the terminal.

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

Dated: September 11, 2001.

P.M. Coleman,

Commander, U.S. Coast Guard, Captain of the Port, Prince William Sound, Alaska.

[FR Doc. 01–27874 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–197]

RIN 2115–AA97

Safety Zone; Route 1 Bascule Bridge, Mystic River, Mystic, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone on all waters of the Mystic River within 100 feet of both the north and south side of the Mystic River Route 1 Bascule Bridge in Mystic, CT. This safety zone will prevent marine traffic from transiting beneath the bridge while it is being renovated. The safety zone is needed to enable the placement of construction barges in close proximity of the bridge, thus blocking the waterway, and to protect marine traffic from the hazards associated with this operation.

DATES: This rule is effective from 7 a.m. (EST) on December 1, 2001 to 7 a.m. (EST) on April 15, 2002. Comments and related material must reach the Coast Guard Group/Marine Safety Office Long Island Sound, Waterways Management Branch, on or before December 7, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of docket CGD01–01–197 and will be available for inspection or copying at Coast Guard Group/Marine Safety Office Long Island Sound, Waterways Management Branch, 120 Woodward Avenue, New Haven, CT between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number (CGD01–01–197), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail or hand delivery to Coast Guard Group/Marine Safety Office Long Island Sound, Waterways Management Branch, at the address under **ADDRESSES** in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you would like to confirm receipt of your comments or material, please enclose a stamped, self-addressed postcard or envelope. We will consider all material received during the comment period. We may change this rule in view of them.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The safety zone is being established to enable the continued renovation of the Mystic River Route 1 Bascule Bridge. This operation is the final phase of a multi-year bridge renovation project. The project was divided into two phases to help alleviate the burden upon local mariners. The renovation takes place during the winter months when recreational boating traffic is minimal.

At the outset of the project, the State of Connecticut Department of Transportation held two public information meetings to discuss the need for and timing of a safety zone that effectively closes the navigable channel beneath the bridge. No opposition to the proposed dates was received. In addition, Connecticut DOT corresponded with a number of known waterway users for the same purpose. No objections to the proposed dates were registered.

The first phase of the project requiring channel closure began December 1, 2000 and ended April 15, 2001. The closure period during the winter months had minimal impact on the needs of navigation. No complaint or objection was registered by any waterway users. Similarly, the effective dates of the present safety zone should have minimal impact on navigation. Accordingly, we determined that it was unnecessary to engage in the NPRM process for the waterway closure during the effective period of this rule. The public is invited to submit comments during the prescribed period. We may change this rule after consideration of any comments we receive.

Under 5 U.S.C. 553(d), we have determined that good cause exists for making this rule effective less than 30 days following its publication in the **Federal Register**. Construction crews will begin rehabilitation work on the bridge December 1, 2001. Any delay in the effective date of the safety zone beyond the start of construction would be contrary to the public interest insofar as that work may pose hazards to mariners who would otherwise pass beneath the bridge.

Background and Purpose

The Coast Guard is establishing a temporary safety zone on all waters of the Mystic River within 100 feet of both the north and south side of the Mystic River Route 1 Bascule Bridge, located in approximate position 41°21′3″ N, 071°58′1″ W. This safety zone is effective from 7 a.m. (EST) on December 1, 2001 to 7 a.m. (EST) on April 15, 2002. The safety zone will enable the state of Connecticut to complete the second phase of a two-year bridge renovation project that began in December 2000. A large construction barge will be placed near the bridge during renovation work thus blocking the waterway and preventing mariners from transiting through this portion of the Mystic River. The safety zone is also necessary to prevent mariners from the hazards associated with renovation and rehabilitation work on the bridge.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs

and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Although this regulation prevents traffic from transiting a portion of the Mystic River, the effect of this regulation will not be significant for the following reasons: The bridge will not open to traffic during the construction period, therefore potential traffic will be limited to those vessels that could fit under the closed bridge; commercial traffic on the Mystic River north of the Route 1 Bascule Bridge is very limited; recreational traffic is minimal during the time of year the construction will occur; extensive advance notifications will be made to the maritime community via the Local Notice to Mariners, and marine information broadcasts; and prior to commencement of phase-one of this construction project the Mystic River Chamber of Commerce Task Group conducted several open meetings and communicated with local mariners regarding the closure periods.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit the boundaries of the safety zone during its effective dates. This rule will not have a substantial affect on small entities for the following reasons. There is very little commercial traffic north of the Route 1 Bascule Bridge. Recreational traffic needing to transit through the boundaries of the safety zone is minimal during the time of year the construction will occur. The Mystic River Chamber of Commerce Task Group has conducted several public meetings and corresponded with local mariners regarding the need for and timing of the waterway closure. Any entities that might be affected by the closure have had sufficient advance notice to make alternate arrangements. In addition, extensive advance notifications will be made to the maritime community via the Local Notice to Mariners and marine information broadcasts.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule would economically affect it.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 165

Bridges.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.051(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From December 1, 2001 to April 15, 2002, add § 165.T01–197 to read as follows:

§ 165.T01–197 Safety Zone: Route 1 Bascule Bridge, Mystic River, Mystic, CT

(a) *Location.* The following area is designated as a safety zone: all waters of the Mystic River within 100 feet of both the north and south sides of the Route 1 Bascule Bridge located in approximate position 41°21′3″ N, 071°58′1″ W.

(b) *Enforcement period.* This section is effective from 7 a.m. (EST) December 1, 2001 to 7 a.m. (EST) April 15, 2002.

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

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: October 23, 2001.

Joseph J. Coccia,

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

[FR Doc. 01–28006 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska–01–008]

RIN 2115–AA97

Safety Zone; Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, AK

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. The zone is needed to protect the safety of persons and vessels operating in the vicinity of the safety zone during a rocket launch from the Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island facility. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Commander, Seventeenth Coast Guard District, and the Coast Guard Captain of the Port, Western Alaska, or his on-scene representative. The intended effect of the proposed safety zone is to ensure the safety of human life and property during the rocket launch.

DATES: This temporary final rule is effective from 6:30 a.m. to 10:30 a.m. each day starting November 9, 2001 through November 14, 2001, and then from 5 a.m. to 9:15 a.m. each day starting November 15, 2001 through November 21, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP Western Alaska–01–008 and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, 510 ''L'' Street, Suite 100, Anchorage, AK 99501 between 7:30 a.m. to 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Diane Kalina, Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. The parameters of the zone will not unduly impair business and transits of vessels. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of each launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners. Because the hazardous condition is expected to last for approximately 4 hours of each day for 13 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal. Therefore, notice and comment is unnecessary. Additionally, the process of scheduling a rocket launch is uncertain due to unforeseen delays that can cause cancellation of the launch. The Coast Guard attempts to publish a Final Rule, with a 30-day window, as close to the expected launch date as possible, when it is conveyed to them in time. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to protect human life and property from possible fallout from the rocket launch. This safety zone should have minimal impact on vessel transits and announcements via Broadcast Notice to Mariners will give vessels advanced notice of the launch.

Background and Purpose

The Alaska Aerospace Development Corporation (AADC) will attempt to launch an unmanned rocket from their facility at Narrow Cape, Kodiak Island, Alaska sometime between 8:24 a.m. and 10:10 a.m. each day from November 9, 2001 through November 14, 2001 and between 7:02 a.m. and 8:54 a.m. each day from November 15, 2001 through November 21, 2001. The safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch.

The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners. Because the hazardous condition is expected to last for approximately 4 hours of each day for 13 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic is expected to be minimal.

Discussion of Regulation

From the latest information received from the Alaska Aerospace Development Corporation, the launch window is scheduled for 4 hours each day from November 9, 2001 through November 21, 2001. The size of the safety zone has been set based upon the trajectory information in order to provide a greater safety buffer in the event that the launch is aborted shortly after take-off. The proposed safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area by a line drawn from a point located at 57°26′53″ North, 152°22′14″ West, then south to a point located at 57°24′42″ North, 152°23′18″ West, then southeast to a point located at 57°11′32″ North, 152°05′35″ West, then northeast to a point located at

57°18′45″ North, 151°53′47″ West, then west northwest to the point located at 57°27′45″ North, 152°18′31″ West, then back to the first point. All coordinates reference Datum: NAD 1983.

This safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch of the rocket. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated date and time of the launch and will grant general permission to enter the safety zone during those times in which the launch does not pose a hazard to mariners.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Because the hazardous condition is expected to last for only approximately 4 hours of each day for 13 days, and because general permission to enter the safety zone will be given during non-hazardous times, the economic impact of this rule on commercial traffic should be minimal. In addition, before the effective period, we will issue maritime advisories widely available to users of the affected portion of the Gulf of Alaska. We believe there will be minimal economic impact on commercial traffic.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit, anchor, or fish in a portion of the Gulf of Alaska off Ugak Island and Narrow Cape from 6:30 a.m. to 10:30 a.m. each day starting November 9, 2001 through November 14, 2001, and then from 5 a.m. to 9:15 a.m. each day starting November 15, 2001 through November 21, 2001. Because the hazardous condition is expected to last for approximately 4 hours of each day for 13 days, and because general permission to enter the safety zone will be given during non-hazardous times, the impact of this rule on commercial and recreational traffic should be minimal. Before the effective period, we will issue maritime advisories widely available to users of the affected portion of the Gulf of Alaska. We believe there will be minimal impact to small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Consultation and Coordination with Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T17–008 to read as follows:

§ 165.T17–008 Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island, AK: Safety Zones.

(a) *Description.* This safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area bounded by a line drawn from a point located at 57°26′53″ North, 152°22′14″ West, then south to a point located at 57°24′42″ North, 152°23′18″ West, then southeast to a point located at 57°11′32″ North, 152°05′35″ West, then northeast to a point located at 57°18′45″ North, 151°53′47″ West, then west northwest to the point located at 57°27′45″ North, 152°18′31″ West, then back to the first point. All coordinates reference Datum: NAD 1983.

(b) *Effective dates.* This section is effective from 6:30 a.m. to 10:30 a.m. each day starting November 9, 2001 through November 14, 2001, and then from 5 a.m. to 9:15 a.m. each day starting November 15, 2001 through November 21, 2001.

(c) *Regulations.* (1) The Captain of the Port and the Duty Officer at Marine Safety Office, Anchorage, Alaska can be contacted at telephone number (907) 271–6700.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing the safety zone.

(3) The general regulations governing safety zones contained in § 165.23 of this part apply. No person or vessel may enter or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port or his on-scene representative. In the vicinity of Narrow Cape, the Captain of the Port, Western Alaska's on-scene representative may be contacted at the Kodiak Launch Complex via VHF marine channel 16.

Dated: October 26, 2001.

W. J. Hutmacher,

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

[FR Doc. 01–28005 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–056–2–200205; FRL–7098–6]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Alabama: Control of Gasoline Sulfur and Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a SIP revision submitted by the State of Alabama establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the Birmingham nonattainment area (Shelby and Jefferson counties in Alabama). Alabama developed these fuel requirements to reduce emissions of nitrogen oxides and volatile organic compounds as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Birmingham nonattainment area. EPA is approving Alabama's fuel requirement into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Birmingham nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

EFFECTIVE DATE: This final rule is effective on December 7, 2001.

ADDRESSES: Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Lynorae Benjamin, (404) 562–9040.

Alabama Department of Environmental Management (ADEM), 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION: On November 1, 2000, the State of Alabama submitted an attainment demonstration for the 1-hour ozone NAAQS for the Birmingham nonattainment area for inclusion into the Alabama SIP. The rule for the fuel program (the subject of this final rulemaking) is included in this submittal in Appendix I; the request for a waiver from Federal preemption pursuant to 211(c)(4)(C) of the Act (also the subject of this final rulemaking) is included as Appendix II of this submittal. Specifically, Appendix II of the Alabama submittal contains data and analyses to support a finding under section 211(c)(4)(C) that the State's low-sulfur and low-RVP requirements are necessary for the Birmingham nonattainment area to achieve the ozone NAAQS. On September 11, 2001, (66 FR 47142) EPA published a notice of proposed rulemaking (NPR) to approve the fuel waiver request and fuel rule. That NPR provides a detailed description of this action and EPA's rationale for proposed approval. The public comment period for this action ended on October 11, 2001. No comments, adverse or otherwise, were received on EPA's proposal.

Final Action

EPA is approving Alabama's low-sulfur/low-RVP fuel program into the federally enforceable SIP because the fuel requirements are in accordance with the Act, are necessary for the Birmingham nonattainment area to achieve the 1 hour ozone NAAQS in a timely manner, and will supply some or all of the reductions needed to achieve the ozone NAAQS.

Administrative Requirements

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

will not have 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, 2001). 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, 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 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 prior existing requirements 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. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1195 (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 Action of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 24, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

2. Section 52.50 is amended:

A. In paragraph (c) add a new chapter heading No. 335–3–20–Control Fuels, and entries for Sections 335–3–20–.01, 335–3–20–.02, and 335–3–20–.03; and

B. In paragraph (e) add a new entry for ''Alabama Fuel Waiver Request—Appendix II of the Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area,'' at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
*	*	*	*	*
Chapter No. 335–3–20—Control of Fuels				
335–3–20–.01	Definitions	October 24, 2000	November 7, 2001	66 FR 56219.
335–3–20–.02	Control of Fuels	October 24, 2000	November 7, 2001	66 FR 56219.
335–3–20–.03	Recordkeeping, Reporting, and Testing.	October 24, 2000	November 7, 2001	66 FR 56219.

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(e) * * *

Provision	State effective date	EPA approval date	Federal Register notice	Comments
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Alabama Fuel Waiver Request-Appendix II of the Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Non-attainment Area.	December 1, 2000	November 7, 2001	66 FR 56220.	

[FR Doc. 01–27828 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD124–3084; FRL–7085–1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from Distilled Spirits Facilities, Aerospace Coating Operations and Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions establish reasonably available control technology (RACT) requirements to reduce emissions of volatile organic compounds (VOCs) from distilled spirits facilities, aerospace coating operations, and kraft pulp mills. The intended effect of this action is to approve three regulations that reduce VOC emissions from distilled spirits facilities, aerospace coating operations, and kraft pulp mills. This action is being taken under the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on December 7, 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 Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182 and Kristeen Gaffney, (215) 814–2092, or via e-mail at *quinto.rose@epamail.epa.gov* and *gaffney.kristeen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 2, 2001, the Maryland Department of Environment (MDE) requested that EPA parallel-process its approval of three proposed state regulations as revisions to the Maryland SIP. These regulations control VOC emissions from (1) distilled spirits facilities, COMAR 26.11.19.29, (2) aerospace coating operations, COMAR 26.11.19.13–1, and (3) kraft pulp mills, COMAR 26.11.14.01, 26.11.14.02 and 26.11.14.06. These regulations impose RACT requirements for the control of VOC emissions at affected facilities in Maryland. EPA published its notices of proposed rulemaking (NPRs) to approve the aerospace coating and kraft pulp mills regulations on August 24, 2001 (66 FR 44574), and the distilled spirits facilities regulation on August 27, 2001 (66 FR 44995), as revisions to the Maryland SIP.

EPA proposed approval of Maryland's proposed regulations under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending and/or adopting its regulations. These regulations have now been fully adopted by Maryland and were formally submitted to EPA for approval into the Maryland SIP on October 5, 2001. The adopted regulations were not changed from the proposed versions submitted for parallel-processing. The specific requirements of Maryland's regulations to control VOC emissions from distilled spirits facilities, aerospace coating operations, and kraft pulp mills; and the rationale for EPA's proposed actions are explained in the NPRs and will not be restated here. No public comments were received on the NPR pertaining to aerospace coating operations. EPA did receive comments on the NPRs pertaining to kraft pulp mills and distilled spirits facilities. They are not adverse comments which oppose EPA's approval of Maryland's regulations, but rather comments that request to make certain clarifications in its final rulemaking.

II. Comments and Responses

Comment: EPA should make it clear that the terms and provisions of the kraft pulp mills and the distilled spirits facilities, for this rulemaking, only apply to the affected facilities in Maryland.

Response: The terms and provisions of the Maryland's RACT regulations to control VOC emissions from kraft pulp mills and distilled spirits facilities, only apply to the affected facilities located in Maryland, namely Westvaco's Luke Mill (for kraft pulp mills) and Seagram Americas (for the distilled spirits facilities), respectively.

Comment: It is not possible to control emissions of VOCs from aging houses from distilled spirits facilities.

Response: Neither the proposed nor adopted version of Maryland's RACT to control VOC emissions from distilled spirits facilities requires that VOCs be controlled from the aging warehouses. The Maryland regulation is not to be construed to mean that the required good operating practices manual extends to the aging process at the affected facility in Maryland. There are, however, other emission sources at the affected facility in Maryland where fugitive VOC emissions can be minimized. The requirements of Maryland's distilled spirits facilities regulation to minimize VOC emissions by implementing good operating practices at fugitive emission sources, other than the aging warehouses, is unique to the affected facility in Maryland.

III. Final Action

EPA is approving revisions submitted by the State of Maryland on October 5, 2001 pertaining to RACT requirements to reduce VOC from distilled spirits facilities, COMAR 26.11.19.29; aerospace coating operations, COMAR 26.11.19.13–1; and kraft pulp mills, COMAR 26.11.14.01, 26.11.14.02 and 26.11.14.06.

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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2002. 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 approve Maryland's RACT regulations to control VOCs from distilled spirits facilities, aerospace coating operations, and kraft pulp mills, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 9, 2001.

Donald S. Welsh,

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 V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(160), (c)(169) and (c)(170) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(160) Revisions to the Maryland Regulation, COMAR 26.11.19, *Volatile Organic Compounds from Specific Processes,* submitted on October 5, 2001 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of October 5, 2001 from the Maryland Department of the Environment transmitting Maryland Regulation, COMAR 26.11.19.29, *Control of Volatile Organic Compounds From Distilled Spirits Facilities.*

(B) Additions of COMAR 26.11.19.29, *Control of Volatile Organic Compounds From Distilled Spirits Facilities,* adopted by the State of Maryland on September 11, 2000 and effective October 2, 2000.

(C) Revisions to COMAR 26.11.19.29, *Control of Volatile Organic Compounds From Distilled Spirits Facilities,* adopted by the State of Maryland on September 25, 2001 and effective October 15, 2001.

(ii) Additional Materials—Remainder of the State submittals pertaining to the revisions listed in paragraphs (c)(160)(i)(B) and (C) of this section.

* * * * *

(169) Revisions to the Maryland Regulation, COMAR 26.11.19, *Volatile Organic Compounds from Specific Processes,* submitted on October 5, 2001 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of October 5, 2001 from the Maryland Department of the Environment transmitting Maryland Regulation, COMAR 26.11.19.13–1, *Aerospace Coating Operations.*

(B) Addition of COMAR 26.11.19.13–1, *Aerospace Coating Operations,* adopted by the State of Maryland on September 11, 2000 and effective October 2, 2000.

(C) Revisions to COMAR 26.11.19.13–1, *Aerospace Coating Operations,* adopted by the State of Maryland on September 25, 2001 and effective October 15, 2001.

(ii) Additional Materials—Remainder of the State submittals pertaining to the regulations listed in paragraphs (c)(169)(i)(B) and (C) of this section.

(170) Revisions to the Maryland Regulation, COMAR 26.11.14, *Control of Emissions from Kraft Pulp Mills,* submitted on October 5, 2001 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of October 5, 2001 from the Maryland Department of the Environment transmitting Maryland Regulations COMAR 26.11.14.01, 26.11.14.02 and 26.11.14.06, *Control of Emissions from Kraft Pulp Mills.*

(B) Additions of COMAR 26.11.14.01, COMAR 26.11.14.02 and COMAR 26.11.14.06, *Control of Emissions from Kraft Pulp Mills,* adopted by the State of Maryland on December 13, 2000 and effective January 8, 2001.

(C) Revisions to COMAR 26.11.14.01 and COMAR 26.11.14.06, *Control of Emissions from Kraft Pulp Mills,* adopted by the State of Maryland on September 25, 2001 and effective October 15, 2001.

(ii) Additional Materials—Remainder of the State submittals pertaining to the revisions listed in paragraphs (c)(170)(i)(B) and (C) of this section.

[FR Doc. 01–27826 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD117–3081; FRL–7083–7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; RACT for the Control of VOC Emissions From Iron and Steel Production Installations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes reasonably available control technology (RACT) for the control of emissions of volatile organic compounds (VOCs) from iron and steel production installations in Maryland. EPA is approving this revision in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on December 7, 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 Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 2001 (66 FR 39471), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of a SIP revision, which establishes reasonably available control technology (RACT) for the control of emissions of volatile organic compounds (VOCs) from iron and steel production installations in Maryland. The formal SIP revision was submitted by the State of Maryland on January 8, 2001. Other specific requirements of the SIP revision pertaining to VOC RACT from iron and steel production installations in Maryland, and the rationale for EPA's proposed action are explained in the NPR, and will not be restated here. No comments were received on the NPR.

II. Final Action

EPA is approving reasonably available control technology (RACT) for the control of emissions of volatile organic compounds (VOCs) from iron and steel production installations in Maryland as a revision to the Maryland SIP.

III. Administrative Requirements

A. General Requirements

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

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this final rule must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2002. 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 Maryland VOC RACT regulation for iron and steel production facilities may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 5, 2001.

Thomas 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 V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(163) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(163) Revisions to the Maryland Regulations submitted on January 8, 2001 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter dated January 8, 2001 from the Maryland Department of the Environment transmitting regulations that establish reasonably available control technology (RACT) requirements for those sources at integrated steel mills that cause emissions of volatile organic compounds (VOCs).

(B) The following revisions to COMAR 26.11.10, effective December 25, 2000:

(*1*) Addition of COMAR 26.11.10.01B(1) through .0B(5) inclusive, and .01B(8.) [existing provisions .01B(1) and .01B(2) are renumbered as .01B(6) and .01B(7) respectively].

(*2*) New COMAR 26.11.10.06 (Control of Volatile Organic Compounds from Iron and Steel Production Installations).

(*3*) Revisions to COMAR 26.11.10.07 (Testing and Observation Procedures).

(C) Letter dated May 29, 2001 from the Maryland Department of the Environment, noting the correction of a typographical error made in the Maryland Register publication of the Iron and Steel VOC RACT rule.

(ii) Additional Materials—Remainder of the state submittal pertaining to the regulations listed in paragraph (c)(163)(i)(B) of this section.

[FR Doc. 01–27930 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–056–200204; FRL–7098–7]

Approval and Promulgation of Implementation Plans: Alabama: Attainment Demonstration of the Birmingham 1-hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving additions to Alabama's Air Quality Regulations and the ground-level 1-hour ozone attainment demonstration State Implementation Plan (SIP) for the Birmingham nonattainment area submitted by the Alabama Department of Environmental Management (ADEM) on November 1, 2000. This rule is based on the requirements of the Clean Air Act as amended in 1990 (CAA), related to 1-hour ozone attainment demonstrations. EPA will be approving the fuel control measure in a separate **Federal Register** action.

EFFECTIVE DATE: This final rule is effective on December 7, 2001.

ADDRESSES: Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION: On November 1, 2000, the Alabama Department of Environmental Management (ADEM) submitted a revision to its ground-level 1-hour ozone attainment SIP to meet the requirements of the CAA as amended in 1990, related to 1-hour ozone attainment demonstrations. The revision consists of the adoption of the regulatory section, chapter 335–3–8 Control of Nitrogen Oxide Emissions: (.03) NO_X Emissions from Electric Utility Generating Units, and the adoption of the non-regulatory ground-level 1-hour ozone attainment demonstration. On September 11, 2001, (66 FR 47145) EPA published a notice proposing to approve the November 1, 2000, ground-level 1-hour ozone attainment demonstration and the associated regulations. That notice provided for a public comment period ending on October 11, 2001. A detailed description of this attainment demonstration and EPA's rationale for approving it was provided in the proposal notice and will not be restated here. No adverse comments were received on EPA's proposal.

I. Final Action

EPA is approving the ground-level 1-hour ozone attainment demonstration for Birmingham and the associated regulations, which were submitted to EPA on November 1, 2000. EPA finds that Alabama's submittal is fully approvable.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May

22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 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. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 24, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

2. Section 52.50 is amended by:

A. Adding in paragraph (c) a new entry in Chapter No. 335–3–8—Nitrogen Oxides Emissions for Section 335–3–8–.03; and

B. Adding a new entry at the end of the table in paragraph (e) for ''Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area'' to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
*	*	*	*	*
Chapter No. 335–3–8 Nitrogen Oxides Emissions				
*	*	*	*	*
Section 335–3–8–.03	NO_X Emissions from Electric Utility Generating Units.	October 24, 2000	November 7, 2001	[Insert citation of publication].
*	*	*	*	*

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(d) * * *

(e) * * *

Provision	State effective date	EPA approval date	Federal Register notice	Comments
*	* *	*	*	*
Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area.	December 1, 2000	November 7, 2001	[Insert citation of publication].	

[FR Doc. 01–27827 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301187; FRL–6806–9]

RIN 2070–AB78

Imidacloprid; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the combined residues of imidacloprid in or on almond nutmeat, almond hulls, and cranberries and modifies the existing time limited tolerances for stone fruit and prunes. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on almonds, stone fruit, and cranberries. This regulation establishes maximum permissible levels for residues of imidacloprid in these food commodities. The tolerances will expire and are revoked on December 31, 2003.

DATES: This regulation is effective November 7, 2001. Objections and requests for hearings, identified by docket control number OPP–301187, must be received by EPA on or before January 7, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301187 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9367; and e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180._00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301187. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the insecticide imidacloprid, [(1-[6-chloro-3-pyridinyl) methyl]-*N*-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent, in or on almond nutmeat at 0.05 part per million (ppm), almond hulls at 4.0 ppm, cranberries at 0.5 ppm and modifying the existing time limited tolerances for stone fruit from 1.0 ppm to 3.0 ppm and prunes from 3.5 ppm to 10.0 ppm. These tolerances will expire and are revoked on December 31, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(1)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the

requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Imidacloprid on Stone Fruit and Almonds and FFDCA Tolerances

The glassy-winged sharpshooter (GWSS) poses a significant threat to viticulture throughout California. Native to Southeast United States, this large leafhopper was inadvertently introduced into Southern California about 10 years ago. It went unrecognized for several years due to its similarity to the smoke tree sharpshooter, a native insect. It is of particular concern to grape growers due to its ability to transmit Xylella fastidiosa, the bacterium that causes Pierce's Disease. EPA has authorized under FIFRA section 18 the use of imidacloprid on stone fruit and almonds for control of the glassy- winged sharpshooter in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

EPA has also authorized under FIFRA section 18 the use of imidacloprid on cranberries for control of cranberry weevils in Massachusetts. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of imidacloprid in or on stone fruit, almonds and cranberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on stone fruit, prunes, almond nutmeat, almond hulls and cranberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether imidacloprid meets EPA's registration requirements for use on stone fruit, almonds, and/or cranberries or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of imidacloprid by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any States other than California to use this pesticide on stone fruit and almond or Massachusetts on cranberries under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for imidacloprid, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of imidacloprid and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerance for the combined residues of imidacloprid in or on almond nutmeat at 0.05 ppm, almond hulls at 4.0 ppm, stone fruit at 3.0 ppm, prunes at 10.0 ppm, and cranberries at 0.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (aRfD or cRfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF).

Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for imidacloprid used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR IMIDACLOPRID FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary females 13-50 years of age	NOAEL = Not Determined LOAEL = 42 mg/kg/day UF = 100 Acute RfD = 0.42 mg/kg/day	FQPA SF = 3 aPAD = acute RfD/FQPA SF = 0.14 mg/kg/day	Acute Neurotoxicity - Rats LOAEL = 42 mg/kg/day based on decreased motor activity in female rats.
Acute Dietary general population including infants and children	NOAEL = Not Determined LOAEL = 42 mg/kg/day UF = 100 Acute RfD = 0.42 mg/kg/day	FQPA SF = 3 aPAD = acute RfD/FQPA SF = 0.14 mg/kg/day	Acute Neurotoxicity - Rats LOAEL = 42 mg/kg/day based on decreased motor activity in female rats.
Chronic Dietary all populations	NOAEL= 5.7 mg/kg/day UF = 100 Chronic RfD = 0.057 mg/kg/day	FQPA SF = 3 cPAD = chronic RfD/FQPA SF = 0.019 mg/kg/day	Combined Chronic Toxicity/Carcinogenicity - Rats LOAEL = 16.9 (males) 24.9 (females) mg/kg bwt/day based on increased number of thyroid lesions.
Short-Term Dermal (1 to 7 days) (Residential)	N/A	N/A	No dermal or systemic toxicity was seen in a 21-day dermal toxicity study in rabbits following repeated dermal applications of imidacloprid at 1,000 mg/kg bwt/day (Limit-Dose) for 3 weeks. Therefore, this risk assessment is not required.
Intermediate-Term Dermal (1 week to several months) (Residential)	N/A	N/A	No dermal or systemic toxicity was seen in a 21-day dermal toxicity study in rabbits following repeated dermal applications of imidacloprid at 1,000 mg/kg bwt/day (Limit-Dose) for 3 weeks. Therefore, this risk assessment is not required.
Long-Term Dermal (several months to lifetime) (Residential)	N/A	N/A	No dermal or systemic toxicity was seen in a 21-day dermal toxicity study in rabbits following repeated dermal applications of imidacloprid at 1,000 mg/kg bwt/day (Limit-Dose) for 3 weeks. Therefore, this risk assessment is not required.
Short-Term Inhalation (1 to 7 days) (Residential)	N/A	N/A	A short-term inhalation endpoint was not identified due to the demonstrated absence of toxicity.
Intermediate-Term Inhalation (1 week to several months) (Residential)	N/A	N/A	Based on the LC_{50} of >5.33 mg/L (Limit-Dose), imidacloprid is placed in Toxicity Category IV. Additionally, the vapor pressure for imidacloprid is relatively low (6.9 x 10^{-9} torr). Therefore, a separate risk assessment via this route is not required.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR IMIDACLOPRID FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Long-Term Inhalation (several months to lifetime) (Residential)	N/A	N/A	Based on the LC_{50} of >5.33 mg/L (Limit-Dose), imidacloprid is placed in Toxicity Category IV. Additionally, the vapor pressure for imidacloprid is relatively low (6.9×10^{-9} torr). Therefore, a separate risk assessment via this route is not required.
Cancer (oral, dermal, inhalation)	N/A	N/A	Imidacloprid has been classified by the Agency as a Group E chemical, no evidence of carcinogenicity for humans, thus, a cancer risk assessment is not required.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances, some time-limited, are currently established (40 CFR 180.472) for the combined residues of the insecticide imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent, in or on a variety of raw agricultural and animal commodities at levels ranging from 0.02 ppm in eggs to 15 ppm in raisins, waste. Risk assessments were conducted by EPA to assess dietary exposures from [imidacloprid] in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: 100% crop treated and tolerance level residues.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992– nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues and some percent crop treated data used of selected commodities.

iii. *Cancer.* Imidacloprid has been classified by the Agency as a Group E chemical, no evidence of carcinogenicity for humans, thus, a cancer risk assessment is not required.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used tolerance level residues and some percent crop treated data on selected commodities. The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which imidacloprid may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for imidacloprid in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on

the physical characteristics of imidacloprid.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to imidacloprid they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of imidacloprid for acute exposures are estimated to be 4.1 parts per billion (ppb) for surface water and 1.1 ppb for ground water. The EECs for chronic exposures are estimated to be 0.1 ppb for surface water and 1.1 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Imidacloprid is currently registered for use on the following residential non-dietary sites: Ornamentals (e.g., flowering and foliage plants, ground covers, turf, and lawns), tobacco, golf courses, walkways, recreational areas, household or domestic dwellings (indoor/outdoor), and cats/dogs. The risk assessment was conducted using the following exposure assumptions: Short- and intermediate-term oral exposure are not expected for adult population subgroups. However, since imidacloprid is registered for use on turf, home gardens and pets, the Agency has identified potential short-term oral exposures to children for these uses. Thus, a residential short-term risk assessment via the oral route is required.

The DWLOC for short-term exposure to imidacloprid was calculated relative to the aPAD which was utilized for estimating risk for short-term oral exposure to imidacloprid. To calculate the DWLOC for short-term exposure relative to an acute toxicity endpoint, the sum of average dietary food exposure and the oral exposure from imidacloprid home garden, turf, and pet uses was subtracted from the aPAD to obtain the maximum allowable short-term exposure to imidacloprid in drinking water (Chronic food exposure = 0.011 mg/kg/day. Oral exposure from home garden and turf uses = 0.0059 mg/kg bwt/day, oral exposure from pet uses = 0.10 mg/kg bwt/day). DWLOCs were then calculated using default body weights and drinking water consumption figures, and then compared to the chronic water number.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether imidacloprid has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, imidacloprid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that imidacloprid has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Developmental toxicity studies*. In a developmental toxicity study with Sprague-Dawley rats, groups of pregnant animals (25/group) received oral administration of imidacloprid (94.2%) at 0, 10, 30, or 100 mg/kg bwt/day during gestation days 6 through 16. Maternal toxicity was manifested as decreased body weight gain at all dose levels and reduced food consumption at 100 mg/kg bwt/day. No treatment-related effects were seen in any of the reproductive parameters (i.e., Caesarean section evaluation). At 100 mg/kg bwt/day, developmental toxicity manifested as wavy ribs (fetus =7/149 in treated vs. 2/158 in controls and litters, 4/25 vs. 1/25). For maternal toxicity, the LOAEL was 10 mg/kg bwt/day (LDT) based on decreased body weight gain; a NOAEL was not established. For developmental toxicity, the NOAEL was 30 mg/kg bwt/day and the LOAEL was 100 mg/kg bwt/day based on increased wavy ribs.

In a developmental toxicity study with Chinchilla rabbits, groups of 16 pregnant does were given oral doses of imidacloprid (94.2%) at 0, 8, 24 or 72 mg/kg bwt/day during gestation days 6 through 18. For maternal toxicity, the NOAEL was 24 mg/kg bwt/day and the LOAEL was 72 mg/kg bwt/day based on mortality, decreased body weight gain, increased resorptions, and increased abortions. For developmental toxicity, the NOAEL was 24 mg/kg bwt/day and the LOAEL was 72 mg/kg bwt/day based

on decreased fetal body weight, increased resorptions, and increased skeletal abnormalities.

3. *Reproductive toxicity study*. In a 2-generation reproductive toxicity study, imidacloprid (95.3%) was administered to Wistar/Han rats at dietary levels of 0, 100, 250, or 700 ppm (0, 7.3, 18.3, or 52.0 mg/kg bwt/day for males and 0, 8.0, 20.5, or 57.4 mg/kg bwt/day for females). For parental/systemic/reproductive toxicity, the NOAEL was 250 ppm (18.3 mg/kg bwt/day) and the LOAEL was 750 ppm (52 mg/kg bwt/day), based on decreases in body weight in both sexes in both generations. Based on these factors, the Agency determined that the review be revised to indicate the parental/systemic/reproductive NOAEL and LOAEL to be 250 and 700 ppm, respectively, based upon the body weight decrements observed in both sexes in both generations.

4. *Prenatal and postnatal sensitivity*. The developmental toxicity data demonstrated no increased sensitivity of rats or rabbits to *in utero* exposure to imidacloprid. In addition, the multi-generation reproductive toxicity study data did not identify any increased sensitivity of rats to *in utero* or postnatal exposure. Parental NOAELs were lower or equivalent to developmental or offspring NOAELs.

5. *Conclusion*. There is a need for a developmental neurotoxicity study for assessment of potential alterations of functional development. However, the Agency has determined that this data gap does not preclude the establishment/continuance of tolerances. The 10X safety factor to account for enhanced sensitivity of infants and children (as required by FQPA) was reduced to 3x and the factor applies to all population subgroups.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to imidacloprid in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of imidacloprid on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to imidacloprid will occupy 24% of the aPAD for the U.S. population, 18% of the aPAD for females 13 years and older, 47% of the aPAD for non-nursing infants less than 1 year old and 47% of the aPAD for children 1-6 years old. In addition, despite the potential for acute dietary exposure to imidacloprid in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of imidacloprid in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO IMIDACLOPRID

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population	0.14	24%	4.1	1.1	3,900
Children 1-6	0.14	47%	4.1	1.1	740

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to imidacloprid from food will utilize 26% of the cPAD for the U.S. population, 68% of the cPAD for non-nursing infants and 58% of the cPAD for children 1-6 years old. Based on the use pattern, chronic residential exposure to residues of imidacloprid is not expected. In addition, despite the potential for chronic dietary exposure to imidacloprid in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of imidacloprid in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO IMIDACLOPRID

Population Subgroup	cPAD (mg/kg/day)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.019	26	0.1	1.1	490
Non-nursing Infants	0.019	68	0.1	1.1	60
Children 1-6 years old	0.019	58	0.1	1.1	90

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Imidacloprid is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for imidacloprid.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 350 for children 1-6 years old (the population sub-group of concern. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of imidacloprid in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO IMIDACLOPRID

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Children 1-6 years old	350	300	0.1	1.1	200

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Though residential exposure could occur with the use of imidacloprid, no toxicological effects have been identified for intermediate-term toxicity. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. Imidacloprid has been classified by the Agency as a Group E chemical, no evidence of carcinogenicity for humans, thus, a cancer risk assessment is not required.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to imidacloprid residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example - gas chromatography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits for imidacloprid on stone fruit, almonds or cranberries.

VI. Conclusion

Therefore, the tolerance is established for the combined residues of imidacloprid, (1-[6-chloro-3-pyridinyl) methyl]-*N*-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent, in or on almond nutmeat at 0.05 ppm, almond hulls at 4.0 ppm, cranberries at 0.5 ppm, and the exisiting time limited tolerance for stone fruit is modified from 1.0 ppm to 3.0 ppm and for prunes is modified from 3.5 ppm to 10.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301187 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 7, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR

178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3.*Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301187, to: Public Information and Records Integrity Branch, Information Resources and Services Division(7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have

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

IX. 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 15, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.472 is amended by revising the entries for ''cranberries,'' ''stone fruit, crop group 12,'' and ''prunes'' and adding commodities to the table in paragraph (b) to read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

* * * * *

(b)* * *

Commodity	Parts per million	Expiration/ Revocation Date
Almond, hulls	4.0	12/31/03
Almond, nutmeat	0.05	12/31/03
* * * * *		
Cranberries	0.5	12/31/03
* * * * *		
Prunes	10.0	12/31/03
Stone fruit	3.0	12/31/03
* * * * *		

* * * * *

[FR Doc. 01–27601 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301188; FRL–6807–1]

RIN 2070–AB78

Chlorothalonil; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation re-establishes a time-limited tolerance for combined residues of chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on ginseng. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on ginseng. This regulation re-establishes a maximum permissible level for residues of chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile (SDS-3701) in this food commodity. The tolerance will expire and is revoked on December 31, 2003.

DATES: This regulation is effective November 7, 2001. Objections and requests for hearings, identified by docket control number OPP–301188, must be received by EPA on or before January 7, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301188 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dan Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number:(703) 308–9375; and e-mail address: rosenblatt.dan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180._00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301188. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is re-establishing a tolerance for combined residues of the fungicide chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile, in or on ginseng at 0.10 part per million (ppm). This tolerance will expire and is revoked on December 31, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Chlorothalonil on Ginseng and FFDCA Tolerances

Ginseng is a valuable root crop that is used as a health supplement in a variety of foods such as teas, wine, herbal medicines and gum. Ginseng is grown over multiple growing seasons, so disease control is necessary to ensure that the harvested roots and seeds are not damaged by intensifying disease pressure over successive seasons. Roots are not harvested until the plants are four years old. Growers are concerned about the damage that the fungal disease *Alternaria panax* causes to ginseng gardens. The fungus can produce leaf and stem blight which defoliates and diminishes the overall vigor of effected ginseng. These blights can result in high or complete yield loss of the harvested ginseng root.

Growers have typically relied upon mancozeb treatments to protect gardens against *Alternaria panax*. However, during the 2001 growing season, Wisconsin experienced significant precipitation and also hot humid conditions. This weather cycle further heightened the probability of significant disease pressure. At the same time, the rain events negated the effectiveness of the traditional control means, mancozeb. If applied prior to rain events, mancozeb will wash off of the ginseng plants. The Applicant identified a weather-stick formulation of chlorothalonil that has the characteristic of adhering strongly to the ginseng plants. Thus, on June 15, 2001, the Wisconsin Department of Agriculture, Trade, and Consumer Protection availed itself of its authority to declare a crisis situation under section 18, thereby permitting growers to immediately use a weather-stick formulation of chlorothalonil on ginseng.

EPA acknowledges that there are not sufficient registered alternatives and concurred on the crisis declaration by the State to control leaf and stem blight in ginseng.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of chlorothalonil in or on ginseng. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 31, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on ginseng after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not

exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether chlorothalonil meets EPA's registration requirements for use on ginseng or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of chlorothalonil by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Wisconsin to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for chlorothalonil, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of chlorothalonil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on ginseng at 0.10 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10x to account for interspecies differences and 10x for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10x to account for interspecies differences and 10x for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 $x10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for chlorothalonil used for human risk assessment is shown in the following Table 1.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CHLOROTHALONIL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary general population including infants and children	LOAEL = 175 mg/kg/day UF = 300 Acute RfD =0.58 mg/kg/day	FQPA SF = 1X aPAD = acute RfD/FQPA SF= 0.58 mg/kg/day	Subchronic Dietary - Rats LOAEL = 175 mg/kg/day based on increased cell proliferation correlated with histopathological lesions of degeneration of the proximal convoluted tubules and epithelial hyperplasia.
Chronic dietary all populations	NOAEL = 2 mg/kg/day UF = 100 Chronic RfD = 0.02 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD/FQPA SF= 0.02 mg/kg/day	Chronic Toxicity/Carcinogenicity Study - Rats LOAEL = 4 mg/kg/day based on increased kidney weights and hyperplasia of the proximal convoluted tubules in the kidneys as well asulcers and forestomach hyperplasia.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CHLOROTHALONIL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Short-term dermal (1 to 7 days) (Residential)	dermal (or oral) study NOAEL= 600 mg/kg/day (dermal absorption rate = 0.15%)	LOC for MOE = 100 (Residential)	21-Day Dermal Toxicity Study - Rats LOAEL = 600 mg/kg/day based on no treatment-related systemic toxicity in the highest dose tested.
Intermediate-termdermal (1 week to several months) (Residential)	dermal (or oral) study NOAEL = 600 mg/kg/day (dermal absorption rate = 0.15%	LOC for MOE = 100 (Residential)	21-Day Dermal Toxicity Study - Rats LOAEL = 600 mg/kg/day based on no treatment-related systemic toxicity in the highest dose tested.
Cancer (oral, dermal,inhalation)	$Q^* = 7.66 \times 10^{-3}$ (mg/kg/day)$^{-1}$		Chronic toxicity/carcinogenicity study in rats. Findings based on evidence of increased incidence of renal adenomas, carcinomas and adenomas/carcinomas combined in rats and mice following chronic dosing at 15 and 175 milligram/kilograms/day (mg/kg/day), as well as increased incidence of forestomach carcinomas in CD-1 mice and papillomas and/or carcinomas combined in Fisher 344 rats. A 3/4 scaling factor was applied to the Q*.
Cancer (oral, dermal, inhalation)	NOAEL = 1.5 mg/kg/day	LOC for MOE = 9,500	Cell proliferation study in rats; LOAEL = 15 mg/kg/day based on toxic response of the kidney and forestomach.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

1. *Mechanistic data.* In a cell proliferation study, 28 male Fischer 344 rats received technical chlorothalonil (97.9%) in the diet at 175 mg/kg/day for up to 91 days. Mean labeling index was statistically increased in the kidneys of male rats treated with 175 mg/kg/day chlorothalonil at all scheduled sacrifice times. From Day 7 to Day 28, the increase in labeling index was relatively stable (approximately 10-fold over control), with a decrease to approximately 3.5-fold over control on Day 91. Increased cell proliferation correlated with histopathological lesions of degeneration of the proximal convoluted tubules and epithelial hyperplasia. The results of this study demonstrate a sustained cell proliferative response as a result of dietary administration of technical chlorothalonil at a dose of 175 mg/kg/day.

In another study, 96 male SPR rats were divided into test groups of 6 animals per group. Rats received technical chlorothalonil (98.98% a.i.) in the diet at dose levels of 0, 1.5, 15, or 175 mg/kg/day for either 7, 14, 21, or 28 days (total of 24 rats per time point). Histological examination of kidney and stomach tissue was performed for each group after the appropriate exposure. In addition, kidneys were subjected to PCNA staining and stomachs to BrdU staining, and the labeling index and labeling count of cell nuclei were performed. Duodenum was used as a negative control for PCNA and BrdU staining. Increased absolute and relative weight of the kidneys was observed at 175 mg/kg/day at all time points, and, in one animal, at 15 mg/kg/day on Day 28. Increased incidence of vacuolization of the epithelium of the proximal convoluted tubules was observed at all time points at 175 mg/kg/day on Days 7, 14, and 21 at 15 mg/kg/day. PCNA immunostaining of the proximal convoluted tubule epithelial cells showed increased labeling of cells at the 175 mg/kg/day dose level at all time points, and increased labeling at 15 mg/kg/day on Days 7, 14 and 21. BrdU labeling of the rat forestomach showed marked labeling at 175 mg/kg/day at all time points, and increased labeling on Day 28 at 15 mg/kg/day. The results of this study demonstrate a toxic response of the kidney and forestomach to repeated dietary administration of chlorothalonil at doses of 15 and 175 mg/kg/day.

2. *Summary of toxicological dose and levels of concern for SDS-3701 for use in human risk assessment.* There is no evidence of carcinogenicity for the SDS-3701 metabolite in either rats or mice. For the acute and chronic non-cancer exposure assessments, residues of SDS-3701 were combined with residues of chlorothalonil and the sum compared to chlorothalonil levels of concern (the LOAEL for acute dietary risk and the RfD for chronic non-dietary risk).

3. *Summary of toxicological dose and levels of concern for HCB for use in human risk assessment.* A summary of the toxicological endpoints for HCB used for human risk assessment is shown in the following Table 2.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR HCB FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Chronic dietary all populations	NOAEL = 0.08 mg/kg/day UF = 100	Chronic RfD = 0.0008 mg/kg/day	130-week study in rats. Effects observed were hepatic centrilobular basophilic chromogenesis.

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR HCB FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Cancer (oral, dermal, inhalation)	Q* = 1.02 $(mg/kg/day)^{-1}$		Carcinogenicity study in rodents. Based on increased tumor incidences in hamsters and rats. A 3/4 scaling factor was applied to the Q*.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.275) for the combined residues of chlorothalonil and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile, in or on a variety of raw agricultural commodities. Because it is a low consumption specialty crop, ginseng is not uniquely identified in the dietary exposure system the Agency uses to estimate food consumption behaviors in the U.S. Thus, there is not likely to be a measurable difference in the exposures and risks from chlorothalonil when ginseng is added into the exposure scenario. Also, there are not likely to be implications for livestock as ginseng is not a feed item. However, in connection with another registration action involving chlorothalonil, EPA recently completed a comprehensive risk assessment for chlorothalonil. These risk assessments were conducted by EPA to assess dietary exposures from chlorothalonil and its metabolite in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1977–1978–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Each analysis assumes uniform distribution of chlorothalonil in the commodity supply. Acute dietary exposure was estimated based on the theoretical maximum residue contribution (TMRC) or anticipated residues for combined residues of chlorothalonil and SDS-3701. Percent crop treated and anticipated residue refinements were used.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Risk Evaluation System (DRES) was used. The following assumptions were made for the chronic exposure assessments: Tolerance level residues and percent of crop treated information were used in the analysis for chlorothalonil and SDS-3701. Anticipated residues were used in the chronic dietary exposure analysis from food for HCB.

iii. *Cancer.* In this analysis, dietary exposure from chlorothalonil was estimated based on anticipated residues (excluding meat and milk, eggs and poultry). Meat and milk, eggs and poultry were not included in this analysis since chlorothalonil residues are not expected in these commodities. SDS-3701 was not included in this analysis since it is not carcinogenic. The dietary exposure from food from HCB was estimated based on anticipated residues (includes meat and milk, eggs, and poultry). Since HCB is a contaminant in several other pesticides, an aggregate exposure assessment for HCB was conducted with food uses of chlorothalonil, pentachlorobenzene, picloram, and dacthal. HCB is present in five other food-use pesticides but at low levels which do not significantly add to the aggregate dietary exposure. Pentachlorobenzene (PCB) is also present in PCNB, and the Agency has concluded that the carcinogenic potential of PCB is comparable to HCB. In estimating dietary carcinogenic risk from HCB in these four pesticides, the Q* for PCB is assumed to be equal to that for HCB. The assumption was made that the impurities would occur on food commodities at the same ratio to the active ingredient as was present in the formulation applied to these crops. It is also assumed that the impurity would dissipate from the food commodity at an equal or greater rate than the active ingredient. The Agency believes these are reasonable assumptions because there are data from studies with chlorothalonil, picloram, and dacthal which support this approach.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as shown in the following Table 3.

TABLE 3.—ESTIMATION OF PERCENTAGE OF CROPS TREATED WITH CHLOROTHALONIL

Commodity	Processing Factors	Anticipated Residues (ppm)		% Crop Treated
		Chlorothalonil	HCB	
Apricots	None	0.0078	3.9×10^{-6}	35
Banana pulp	None	0.0005	0.3×10^{-6}	10
Beans, dry	None	0.0087	4.4×10^{-6}	2
Beans, snap	0.05 for all cooked canned or frozen beans	0.0133	6.7×10^{-6}	40
Broccoli	None	0.0015	0.8×10^{-6}	15
Brussels sprouts	None	0.0135	6.8×10^{-6}	42
Cabbage	0.2 for all food forms	0.0137	6.9×10^{-6}	50
Cabbage, Chinese	0.2 for all food forms	0.0116	5.8×10^{-6}	100
Cattle fat	None	0	1.65×10^{-4}	None
Cattle meat	None	0	1.24×10^{-5}	None
Cattle liver	None	0	8×10^{-6}	None
Cattle kidney	None	0	8×10^{-6}	None
Cocoa	0.1 for all food forms	0.05	2.5×10^{-6}	100
Cantaloupe	None	0.0191	9.6×10^{-6}	30
Carrots	0.005 for all cooked or processed food forms	0.0036	1.8×10^{-6}	35
Cauliflower	None	0.0115	5.8×10^{-6}	20
Celery	None	0.0874	43.7×10^{-6}	85
Cherries	0.05 for all processed food forms	0.002	1×10^{-6}	40
Cranberries	None	0.4125	206×10^{-6}	60
Coffee	0.1 for all food forms	0.20	1×10^{-4}	100
Corn, sweet	None	0.0002	0.1×10^{-6}	5
Cucumber	0.2 for cold-canned pickles; 0.04 for hot-canned pickles	0.0062	3.1×10^{-6}	35
Garlic	None	0.0005	0.3×10^{-6}	10
Honeydew	None	0.0033	1.7×10^{-6}	20
Nectarines	None	0.00175	0.9×10^{-6}	35
Onions, bulb	None	0.0033	1.7×10^{-6}	65

TABLE 3.—ESTIMATION OF PERCENTAGE OF CROPS TREATED WITH CHLOROTHALONIL—Continued

Commodity	Processing Factors	Anticipated Residues (ppm)		% Crop Treated
		Chlorothalonil	HCB	
Onions, green and leeks	None	0.0262	13.1×10^{-6}	65
Papayas	None	0.005	2.5×10^{-6}	100
Parsnips	None	0.0052	2.6×10^{-6}	10
Passion fruit	None	3	1.5×10^{-3}	100
Peaches	0.02 for all cooked or canned food forms	0.0018	0.9×10^{-6}	35
Peanuts	0.5 for peanut oil	0.0045	2.3×10^{-6}	90
Plums	0.33 for dried prunes	0.0005	0.3×10^{-6}	10
Potatoes	None	0.0030	1.5×10^{-6}	30
Poultry fat	None	0	2.2×10^{-6}	None
Pumpkins	0.002 for raw pumpkin	0.0065	3.3×10^{-6}	30
Soybeans	0.5 for soybean oil	0.00005	2.5×10^{-8}	1
Squash	None for summer squash; 0.002 for raw winter squash; 0.001 for cooked winter squash	0.0058	2.9×10^{-6}	15
Tomatoes	0.25 for juice; 0.02 for paste, puree and catsup	0.0716	35.8×10^{-6}	70
Watermelons	None	0.0228	11.4×10^{-6}	55

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those

estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which chlorothalonil may be applied in a particular area.

2. *Dietary exposure from drinking water*—i. *Ground water exposure - chlorothalonil and SDS-3701.* Exposure to chlorothalonil in drinking water is derived from the monitoring data. The metabolites (SDS-46851, SDS-47525, SDS-3701, and SDS-19221) were measured at a combined concentration of approximately 16 parts per billion (ppb) in Suffolk County, Long Island in 1981. Chlorothalonil itself has been detected in the Sates of California, Florida, Massachusetts, and Maine at levels typically below 1 ppb. These observations are predictable based on laboratory mobility studies and evidence of metabolite persistence. It is expected that the levels of chlorothalonil metabolites detected in the ground water in New York are relatively high compared to the country as a whole, because (a) they were the highest values reported in the data base, (b) potatoes are a major crop on Long Island, and (c) Long Island ground water is generally shallow and vulnerable. The Long Island values were used to represent a high-end potential exposure. In the absence of data demonstrating otherwise, this assessment is based on the conservative assumption that the detected metabolites of chlorothalonil have the same toxicity as the parent. As indicated above, this assessment relies on other conservative factors.

ii. *Surface water exposure chlorothalonil and SDS-3701.* Chlorothalonil can contaminate surface water at application via spray drift or after application through runoff and erosion. The intermediate soil/water partitioning of chlorothalonil indicates that its concentration is suspended and bottom sediment will be substantially greater than its concentration in water. The major degradate of chlorothalonil in the soil under aerobic conditions is SDS-3701. SDS-3701 appears to be more persistent and mobile than chlorothalonil, based on ground water detections. Substantial amounts of SDS-3701 could be available for runoff for longer periods than chlorothalonil, and SDS-3701 may be more persistent in water/sediment systems than chlorothalonil. The apparent greater mobility of SDS-3701 suggests that it exhibits lower soil/water partitioning than chlorothalonil. Therefore, the ratio of SDS-3701 runoff loss via dissolution in runoff to runoff loss via adsorption to eroding soil for SDS-3701 may be greater than for chlorothalonil. In addition, the ratios of concentrations dissolved in the water column to concentrations adsorbed to suspended and bottom sediment may be higher for SDS-3701 than for chlorothalonil. The Agency has be unable to calculate drinking water risk for SDS-3701 in surface water because no monitoring data were available.

The South Florida Water Management District (SFWMD) summarized chlorothalonil detections in samples collected every 2 to 3 months from surface water sites within the SFWMD from November 1988 through November 1993. Approximately 810 samples (30 sampling intervals x 27 sites sampled/interval) were collected during that time. Chlorothalonil was detected in 25 samples at concentrations ranging from 0.003 ppb to 0.35 ppb. Six of the samples had concentrations greater than 0.01 ppb.

iii. *Ground and surface water exposure HCB and PCB.* HCB and pentachlorobenzene are present in ground water and surface water from sources other than current usage of contaminated pesticides, including manufacturer of solvents and tires, incineration of wastes, and coal combustion. HCB and PCB are persistent and relatively immobile in the environment; the major route of dissipation is through sorption to soil, sediment, and suspended particulates in water. HCB and PCB contamination of ground water sources is relatively unlikely due to the high binding potential of both compounds. Detections of HCB in ground water generally have ranged between 0.0002 to 0.100 ppb. Based on monitoring data and fate properties, it seems unlikely that long-term HBC and PCB concentration in surface water would exceed 10 parts per trillion (ppt) (0.01 ppb).

Surface water detection shows much more variability than concentrations in ground water and have been measured at up to 750 ppb. These values appear to include sorbed HCB. The HCB concentration which actually appear to be dissolved in the water are generally less than 0.001 ppb. Great Lakes region concentrations generally ranged from 0.00002 to 0.0001 ppb. When concentrations exceeded this range, they appeared to be related to industrial areas or areas of historic contamination (more than 20 years ago). Concentrations of PCB in surface water have ranged between 0.00002 and 0.0001 ppb. Concentrations of HCB and PCB in drinking water can be greatly reduced through treatment with activated granular charcoal.

Higher concentrations of HCB and PCB have been reported in surface and ground water, but tend to be related to hazardous waste, landfill sites, and suspended sediment. The U.S. Department of Health and Human Services in 1996 estimated that the average exposure in the United States from drinking HCB contaminated water is 0.00085 µg/kg/year (-0.000082 ppb). Since potential exposures are generally so low, and because pesticides are just one source of HCB and PCB in drinking water, the Agency concluded that there are insufficient data to quantify risk and that drinking water risk estimates from HCB in pesticides do not exceed the Agency's level of concern.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Chlorothalonil is currently registered for use on the following residential non-dietary sites: Home vegetable gardens, ornamentals, paint, stain, and wood preservatives. The risk assessment was conducted using the following exposure assumptions: The Agency completed an exposure assessment for uses of chlorothalonil as an additive contained 40.4% active ingredient for use in caulks, sealants, polymer lattices, grouts, joint compounds, and paper coatings. All relevant occupational and residential exposures were considered. Data were not available to estimate application and post application exposure and risk for primary and secondary homeowner exposure. Primary homeowner exposure occurs in individuals who use or install chlorothalonil-containing material; secondary residential exposure occurs when other individuals live and work in places where chlorothalonil-containing materials have been used. For these exposures, no risk assessment could be conducted, but the Agency believes that secondary and homeowner exposures to these products by themselves are generally lower than primary occupational application exposures.

Since other residential risks could not be quantified, risk concerns and uncertainties about exposure resulted in the following agreements with the registrants. To mitigate potential residential exposure concerns and uncertainties about the packaging and concentration of chlorothalonil additives for paint, the registrants have agreed that chlorothalonil mildewicidal additives must be labeled to prohibit sale over-the-counter in retail outlets. The registrants have committed to

working with the Agency to develop measures for the protection of employees of paint sales outlets who mix mildewicidal additives into paint for sale. To mitigate potential residential exposure concerns and uncertainties about the in-container preservative use of chlorothalonil, particularly because the chlorothalonil content of products in which the preservative is used may not be known to the purchaser, and because such preservatives may be used in paints intended for use by children, the registrants have agreed that the in-container preservative use of chlorothalonil is prohibited.

The contact rate for activities with ornamentals (5,800 cm^2/hr) is based on a study by Brouwer et al., in which chlorothalonil was applied to carnation sprays and carnations grown for cut flowers. Rates for dermal contact with treated turf by adults (1,000 cm^2/hr)and toddlers (8,700 cm^2/hr) are based on EPA estimates for low exposure activities. Contact rates for hand-to-mouth transfer by toddlers (1.56 events/hour), ingestion of treated grass by toddlers (25 cm^2/day, and ingestion of soil from treated areas by children (100 mg/day) are default values which originate with high-end exposure scenarios. For the cancer risk estimates, the Agency assumed that activities with ornamentals occur 4 days per year for 50 years, and that an application is made once a year, for adults in dermal contact with treated turf, that contact occurred 40 days per year for 50 years, and that three applications were made each year. The Agency also assumed that reentry occurred on the day of treatment.

For residential post-application exposures related to the use of chlorothalonil on turf and ornamentals, short- and intermediate-term MOEs ranged from 14 to 26,000. Only the MOEs for toddlers exposed to treated turf were at a risk level of concern at which the EPA typically takes regulatory action. To address this risk, the registrants have agreed to delete the home lawn use from their manufacturing-use and end-use products registered solely for this use. When considering the elimination of the home lawn use of chlorothalonil, EPA had determined that residential post-application exposures to toddlers exposed to treated turf do not exceed EPA's level of concern.

A summary of the residential post-application scenarios and cancer risks from chlorothalonil is shown in the following table 4.

TABLE 4.—SURROGATE RESIDENTIAL POST-APPLICATION SCENARIOS AND CANCER RISKS FROM CHLOROTHALONIL

Exposure Activity/Crop or Target	Application Rate (lb ai/acre)	DFR (µg/cm^2)	LADD* (mg/kg/day)	Cancer Risk (Based on Q*)
Ornamentals (Transplanting/Pruning/Bundling Flowers)	0.183	0.41	2.5E-6	2.0E-9
	8.7	20	1.3E-5	9.6E-8
	15.7	35	2.3E-5	1.8E-7
Vegetables (Harvesting)	0.183	0.41	4.6E-7	3.5E-9
	0.74	1.7	1.9E-6	1.4E-8
	8.7	20	2.2E-5	1.7E-7
Adult Dermal Contact with Turf	8.7	20	3.3E-5	2.5E-7
	11.8	26	4.4E-5	3.4E-7
	15.7	35	5.5E-5	4.2E-7

* Lifetime average daily dose.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether chlorothalonil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, chlorothalonil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that chlorothalonil has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* The developmental and reproductive data for chlorothalonil indicate that there is no evidence of increased sensitivity to chlorothalonil from prenatal and postnatal exposures. In the rat developmental toxicity study, the developmental NOAEL and LOAEL were based on an increase in total resoprtions per dam with a related increase in post-implantation loss. These observations occurred at a dose (400 mg/kg/day) which produced increased mortality and reduced body weight gain in maternal animals. No developmental toxicity was observed in

the rabbit developmental toxicity study, and no maternal toxicity was observed at the highest dose tested (20 mg/kg/day).

iii. *Conclusion*. There is a complete toxicity data base for chlorothalonil and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because no reproductive effects were observed in any study and developmental effects occurred only in the presence of significant maternal toxicity. HCB was not considered in this evaluation of the special sensitivity of infants and children. HCB will be considered at a future date when the Agency is better equipped to understand the implications of FQPA for HCB, which is a common contaminant of at lest nine other pesticides and which also enters the environment from non-pesticidal sources.

D. Aggregate Risks and Determination of Safety

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the estimated MOEs from exposure to chlorothalonil and SDS-3701 residues from food and water do not exceed the Agency's LOC. A summary of the aggregate risk assessment for acute exposure to chlorothalonil is shown in the following Table 5.

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CHLOROTHALONIL AND SDS-3701

Population Subgroup	LOC for MOE	MOE
Food - U.S. Population	300	1,166
Food - Infants <1 year old	300	875
Food - Children (1-6 years)	300	875
Food - Females (13+ years)	300	1,750
Food - Males (13+ years)	300	1,750
Drinking water (ground water) - Children	300	110,000
Drinking water (ground water) - Adults	300	380,000
Drinking water (surface water) - Children	300	50,000,000
Drinking water (surface water) - Adults	300	175,000,000

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to chlorothalonil and SDS-3701 from food will utilize 34% of the cPAD for the U.S. population and 68% of the cPAD for children. Based on the use pattern, chronic residential exposure to residues of chlorothalonil is not expected. EPA does not have chronic non-cancer concerns for HCB in chlorothalonil. EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). The estimated MOEs from residential uses ranged from 310 for adults transplanting, pruning or bundling flowers to 110,000 for infants ingesting paint chips. Though residential exposure could occur with the use of chlorothalonil, the potential short- and intermediate-term exposure were not aggregated with chronic food and water exposures because the toxic effects are different. Therefore, based on the best available data and current policies, potential risks do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population*. HCB and pentachlorobenzene are present in ground water and surface water from sources other than current usage of contaminated pesticides, including manufacturing of solvents and tires, incineration of wastes, and coal combustion. Both are persistent and relatively immobile in the environment; the major route of dissipation is through sorption to soil, sediment, and suspended particulates in water.

HCB and PCB contamination of ground water sources is relatively unlikely due to the high binding potential of both compounds. Detections of HCB in ground water generally have ranged between 0.0002 to 0.100 µg/L. PCB levels in ground water at a hazardous waste site ranged from 0.001 to 62 µg/L.

Based on monitoring data and fate properties, it seems unlikely that long-term HCB and PCB concentrations in surface water would exceed 10 ppt (0.01 µg/L). As discussed previously, surface water detections show much more variability than concentrations in ground water but concentrations which actually appear to be dissolved in the water are generally less than 0.001 µg/L.

The upper bound carcinogenic risk from food uses of HCB for the general U.S. population was calculated using the following equation: HCB Upper Bound Cancer Risk = Dietary Exposure (ARC) x Q*, where the Q* of 1.02 mg/kg/day)-1, the upper bound cancer risk was calculated to be 2.4 x 10-7, contributed through all the published, pending and new uses for chlorothalonil.

The upper bound risk for HCB in chlorothalonil is in the range the Agency generally considers negligible for excess lifetime cancer risk. The exposure assessment for carcinogenic risk from HCB in chlorothalonil includes many a assumptions and uncertainties which impact the Agency's confidence in the calculated risk.

HCB is also a contaminant in several other pesticides, and an aggregate risk assessment for HCB from chlorothalonil and these other sources has been conducted. The exposure assessment for aggregate risk is subject to the same kinds of uncertainties and assumptions as the risk assessment for HCB in chlorothalonil. For some of the individual pesticide contributors, these

limitations impact the assessment to an even greater extent.

Four pesticides that are used on food/feed crops have been assessed for cancer risk due to contamination with HCB -- chlorothalonil, dacthal, picloram, and pentachlornitrobenzene (PCNB). Pentachlorobenzene (PCB) is also present in PCNB, and the Agency has concluded that the carcinogenic potential of PCB is comparable to HCB, based on the similarities of the chemical structures and toxicities of HCB and PCB. In estimated dietary risk from HCB in these four pesticides, the Q* for PCB is assumed to be equal to that for HCB.

HCB is also present in pentachlorophenol, but pentachlorophenol is not a food use pesticide and so that contaminant in pentachlorophenol does not contribute to aggregate dietary risk (the contribution to drinking water risk is discussed below). HCB and/or PCB is present in five other food-use pesticides, but at low levels which do not significantly add to the aggregate dietary exposure.

The estimated aggregate dietary cancer risk from HCB from all known pesticide sources is 1.34 x 10^{-6}. An additional 0.46 x 10^{-6} may be attributed to PCB for a total of 1.8 x 10^{-6}.

A summary of the cancer risks for chlorothalonil, HCB, and PCB are shown in the following Table 6.

Chemical	Q*	Upperbound Cancer Risk (Food)	Cancer MOE for food	Upper Bound Cancer Risk (Water)	Cancer MOE for Water
Chlorothalonil	0.00766	1.2 x 10^{-6}	9,500	8 x 10^{-9}	<1.5 million
HCB from Chlorothalonil	2.4 x 10^{-7}	Not applicable	5 x 10^{-9}	Not applicable	
HCB and PCB - all pesticide sources		1.8 x 10^{-6}	Not applicable	Does not exceed Agency's level of concern	Not applicable

EPA has estimated cancer risk using both the Q* and MOE approaches. Under the MOE approach, cancer risk is estimated at MOE = 9,500. At this time, EPA is not able to conclusively determine that chlorothalonil is a non-linear carcinogen nor to apply approved policy determinations on non-linear carcinogens to chlorothalonil, and so cannot determine whether the MOE of 9,500 represents an excess lifetime risk. Under the Q* approach, cancer risk is estimated at 1.2 x 10^{-6}. This figure is at a level which the EPA considers negligible for excess lifetime cancer risk estimates.

Cancer risk for HCB is estimated at 2.4 x 10^{-7}, and EPA does not have cancer risk concerns for chlorothalonil alone. Although subject to considerable uncertainty, cancer risk from HCB from chlorothalonil and other pesticides, combined with cancer risk from the related contaminate PCB present in other pesticides, is estimated at 1.8 x 10^{-6}. a level at which the EPA typically takes regulatory action. To address this risk, the registrants of chlorothalonil have agreed that the level of HCB in all chlorothalonil products must be reduced to no greater than 0.004% (40 ppm). This is the lowest level that has been shown to be technologically feasible for chlorothalonil. All registrations are conditional on achieving this level, and failure to achieve this level will result in a suspension of manufacture or import of the subject products. In addition, registrants of chlorothalonil products will maintain approximately historic levels of production and import of chlorothalonil manufacturing use product to assure that chlorothalonil with higher levels of HCB will not be stockpiled and formulated. When this decrease in the amount of HCB is considered, EPA has determined that the cancer risk estimates do not exceed the level for regulatory action.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to combined residues of chlorothalonil and SDS-3701 or from residues of the contaminant HCB.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology using gas chromotography is available to enforce the established tolerance expressions. The Pesticide Analytical Manual (PAM) vol. II lists Method I, a gas chromatography method with electron capture detection (ECD), for enforcement of tolerances for plant commodities. An acceptable enforcement method for residues of SDS-3701, a modification of the method for chlorothalonil, is also available.

B. International Residue Limits

There are no Canadian, Mexican, or Codex tolerances for chlorothalonil on ginseng.

VI. Conclusion

Therefore, the tolerance is re-established for combined residues of chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile, in or on ginseng at 0.10 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need To Do To File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301188 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 7, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in

the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301188, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501*et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled

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

IX. 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 20, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.275 is amended by revising the entry for the commodity in the table in paragraph (b) to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

(b)* * *

Commodity	Parts per million	Expiration/Revocation Date
Ginseng	0.10	12/31/03

* * * * *

[FR Doc. 01–27602 Filed 11–6–01; 8:45 am]
BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1201

[STB Ex Parte No. 634]

Consolidated Reporting By Commonly Controlled Railroads

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Board has concluded that consolidated financial reports should be filed for each group of railroads or railroad-related affiliates that operate as a single, integrated United States rail system whose cumulative annual operating revenues meet the Class I threshold of $250 million (in 1991 dollars).

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Paul A. Aguiar, (202) 565–1527. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: On September 25, 2000, the Board proposed that commonly controlled railroads (and their railroad-related affiliates) whose combined annual operating revenues meet the $250 million threshold be required to file consolidated financial reports. *See* 65 FR 57650 (2000). The Board's objective was to gather more meaningful and accurate information on the large rail systems operating in the United States by conforming its regulatory reporting requirements as closely as practical to Financial Accounting Standards Board Statement No. 94, *Consolidation of All Majority-Owned Subsidiaries*. After evaluating the comments filed by interested parties, the Board has concluded that consolidated reports should be required for commonly controlled railroads that operate as a single, integrated United States rail system and whose cumulative operating revenues meet the Class I threshold. Accordingly, the Board will amend its regulations at 49 CFR part 1201 to reflect this change. A printed copy of the full Board decision served November 7, 2001 in this proceeding is available for a fee by contacting Da 2 Da Legal, Room 405, 1925 K Street, NW., Washington, DC 20006, telephone (202) 293–7776. The decision also is available for viewing and downloading via the Board's website at *www.stb.dot.gov*.

List of Subjects in 49 CFR Part 1201

Freight, Railroads, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 49, part 1201 of the Code of Federal Regulations will be amended as follows:

PART 1201—[AMENDED]

1. The authority citation for Title 49, Part 1201 continues to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 11142 and 11164.

2. Section 1–1 is amended by revising paragraph (b)(1) to read as follows:
1–1 Classification of Carriers. * * *

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after the railroad revenue deflator adjustment. Families of railroads operating within the United States as a single, integrated rail system will be treated as a single carrier for classification purposes. Upward and downward reclassification will be effected as of January 1 in the year immediately following the third consecutive year of revenue qualification.

* * * * *

Decided: October 31, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–27950 Filed 11–6–01; 8:45 am]

BILLING CODE 4915–00–P

Proposed Rules

Federal Register
Vol. 66, No. 216
Wednesday, November 7, 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

Office of the Secretary

7 CFR Part 3

Debt Collection

AGENCY: Office of the Secretary, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document gives notice that the Department of Agriculture (USDA) plans to amend and make changes to its existing debt collection procedures at 7 CFR part 3 to reflect changes made by the revised Federal Claims Collection Standards (FCCS) published by the Department of Treasury (Treasury) and the Department of Justice (DOJ) on November 22, 2000, in the **Federal Register**. The Treasury and DOJ revised the FCCS to make clear and reduce in scope Federal debt collection standards and incorporate changes mandated by the Debt Collection Improvement Act of 1996 (DCIA) and the General Accounting Office Act of 1996 (GAOA).

DATES: Submit comments on or before December 7, 2001.

ADDRESSES: Comments should be sent to Dale Theurer, Credit, Travel and Accounting Policy Division, Office of the Chief Financial Officer, Department of Agriculture, Room 4628 South, 1400 Independence Avenue, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Joyce Baumgartner on 202–720–4958, FAX 202–690–1529, email to *jbaumgartner@cfo.usda.gov.*

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (DCA), Pub. L. No. 97–365, was implemented on a government-wide basis by the Federal Claims Collection Standards (FCCS), set forth at 4 CFR part 101 *et seq* issued by DOJ and the General Accounting Office on March 9, 1984. *See* 49 FR 8889 (1984). USDA implemented the FCCS in 7 CFR part 3. As mandated by the DCIA, Pub. L. No. 104–134, on November 22, 2000, the Treasury and DOJ jointly promulgated the revised FCCS which appears in the Code of Federal Regulations at 31 CFR parts 901–904 to reflect the legislative changes to Federal debt collection procedures enacted under the DCIA. *See* 65 FR 70390 (2000). The revised FCCS supersedes the current FCCS codified at 4 CFR parts 101–105, and removes the Comptroller General as a promulgator of the FCCS in accordance with the GAOA, Pub. L. No. 104–316. USDA has reviewed the administrative offset provisions of the revised FCCS and finds the protections and procedures provided to debtors by the current USDA debt collection procedures for administrative offset at 7 CFR part 3, subpart B consistent with those provided by the newly revised FCCS.

At a later date, USDA will move to amend 7 CFR part 3 to reflect the promulgation of the revised FCCS and to incorporate other changes that are USDA specific on collecting debt by administrative offset. USDA requests comments from the public regarding what changes to 7 CFR part 3 should be included as part of any future notice of proposed rules.

Done at Washington, DC, this 29th day of October 2001.

Ann M. Veneman,

Secretary.

[FR Doc. 01–27887 Filed 11–6–01; 8:45 am]

BILLING CODE 3410–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 106

[NOTICE 2001–15]

Request for Comment on Draft Statement of Policy Regarding Party Committee Transfers of Nonfederal Funds for Payment of Allocable Expenses

AGENCY: Federal Election Commission.

ACTION: Draft statement of policy with request for comments.

SUMMARY: In light of the suspension of fundraising activities by some party committees after the terrorist attacks of September 11, 2001, the Commission is considering exercising its discretion by not pursuing *prima facie* violations of the 60 day time limit for party committee transfers of nonfederal funds to pay for the nonfederal share of allocable expenses. The limitations on the scope and duration of the policy under consideration will be discussed in detail below. The Commission seeks comments on the policy under consideration, and on any other circumstances arising out of the events of September 11 that need to be addressed.

DATES: Comments must be submitted on or before November 14, 2001.

ADDRESSES: All comments should be addressed to Rosemary C. Smith, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW, Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to insure legibility. Electronic mail comments should be sent to transfers@fec.gov. Commenters sending comments by electronic mail must include their full name, electronic mail address and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. The Commission will make every effort to have public comments posted on its web site within ten business days of the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Rosemary C. Smith, Assistant General Counsel, or Richard Ewell, Staff Attorney, 999 E Street, NW, Washington, D.C. 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Sections 106.1 and 106.5 of the Commission's regulations (11 CFR 106.1 and 106.5) allow party committees to defray the costs of activities that relate to both federal and nonfederal elections by allocating the costs between their federal and nonfederal accounts, so long as they pay an amount equal to or greater than the federal portion of these expenses with funds that are permissible under the Federal Election Campaign Act, 2 U.S.C. § 431 *et seq.* [''FECA'' or ''the Act''].

Party committees allocate these expenses by paying the entire amount of the expense from a federal account or allocation account, and transferring funds from a nonfederal account to

cover the nonfederal portion of the allocable expense. 11 CFR 106.5(g)(1)(i) and (ii). The regulations establish a time period, or ''window,'' during which these nonfederal transfers may be made. ''[S]uch funds may not be transferred more than 10 days before or more than 60 days after the payments for which they are designated are made.'' 11 CFR 106.5(g)(2)(ii)(B). Any transfer made more than 60 days after payment of the related allocable expense ''shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act.'' 11 CFR 106.5(g)(2)(iii).

In many instances, party committees plan and execute allocable activities based, in part, on the expectation that they will subsequently receive nonfederal funds that can be transferred to their federal or allocation accounts before the expiration of the 60 day time limit in section 106.5(g)(2)(ii)(B). In most instances, committees' expectations are realized.

However, some party committees voluntarily suspended their fundraising activities in the immediate aftermath of the September 11, 2001 terrorist attacks. *See e.g.,* FEC Advisory Opinion Request 2001–16; Rachel Van Dongen, *Shoptalk,* Roll Call, October 11, 2001 *http://www.rollcall.com/pages/politics/shoptalk/.* As a result, some party committees may not have sufficient funds in their nonfederal accounts to make transfers to their federal accounts or allocation accounts in a timely manner, *i.e.,* within 60 days of when the committee pays the allocable expense for which those funds would be transferred.[1]

The Commission recognizes that this situation is the result of the unprecedented events of September 11, 2001, which have had a significant impact on many aspects of American life, and could not have been anticipated.

In light of these circumstances, the Commission is considering exercising its discretion by not pursuing *prima facie* violations of the 60 day time limit in certain limited situations. Under the policy being considered, the Commission would not pursue an untimely party committee transfer made to cover the nonfederal share of an allocable expense paid between August 27, 2001 and November 1, 2001, if the transfer is made no later than December 31, 2001, and is fully disclosed on the party committee's year end report. Alternatively, the Commission would not pursue an untimely party committee transfer made to cover the nonfederal share of an allocable expense paid between August 27, 2001 and December 31, 2001, if the transfer is made no later than March 1, 2002, and is fully disclosed on the party committee's applicable report.

The Commission invites comments on the policy that is under consideration. Comments may be submitted on any aspect of the policy being considered, including its scope and duration, or on any other circumstance arising out of the attacks of September 11 that should be addressed. After reviewing the comments received, the Commission will issue a final Statement of Policy.

The Commission is taking this action in response to the unique circumstances described above. Consequently, this action should not be viewed as a precedent for any similar action in the future.

Dated: November 2, 2001.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 01–27944 Filed 11–6–01; 8:45 am]

BILLING CODE 6715–01–U

[1] The Commission notes that the rules permit but do not require party committees to transfer nonfederal funds to cover the nonfederal portion of an allocable expense, since the effect of not making such a transfer would be that federal funds are used to defray the full amount of the allocable expense, a result that is permissible under the Act and regulations. *See Methods of Allocation Between Federal and Non-Federal Accounts; Payments; Reporting,* 55 FR 26058, 26063 (June 26, 1990) (explaining that ''allocating a portion of certain costs to a committee's non-federal account is a permissive rather than a mandated procedure'').

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. BN–2, BN–2A, BN–2B, BN–2T, BN–2T–4, and BN2A MK. III Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2, BN–2A, BN–2B, BN-2T, BN–2T–4, and BN2A MK. III series airplanes. This proposed AD would require you to repetitively inspect the throttle friction-shaft; and replace the shaft if damaged. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this proposed AD are intended to detect and correct loosening of the throttle friction adjustment beyond its normal limits. Such a condition could lead to damage to the throttle friction-adjuster or the retaining washer and split pin. This could allow the throttle quadrant shaft to laterally shift and impede the operation of the engine controls.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before December 10, 2001.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–47–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy

aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–47–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified FAA that an unsafe condition may exist on all Pilatus Britten-Norman BN–2, BN–2A, BN–2B, BN–2T, BN–2T–4, and BN2A MK. III series airplanes. The CAA reports an incident where the throttle friction adjuster loosened too far, causing the split pin and the washer on the shaft to break.

What Are the Consequences if the Condition is Not Corrected?

The loosening of the throttle friction adjustment beyond its normal limits could lead to damage to the throttle friction-adjuster or the retaining washer and split pin. This could allow the throttle quadrant shaft to laterally shift and impede the operation of the engine controls.

Is There Service Information That Applies to This Subject?

Pilatus Britten-Norman has issued Service Bulletin No. BN2/SB.272, Issue 1, dated July 1, 2000.

What Are the Provisions of This Service Bulletin?

The service bulletin includes procedures for:

—repetitively inspecting the throttle friction-shaft; and

—replacing the shaft if damaged.

What Action Did the CAA Take?

The CAA classified this service bulletin as mandatory and issued British AD Number 003–07–2000, dated August 22, 2000, in order to ensure the continued airworthiness of these airplanes in the United Kingdom.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the CAA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What Has FAA Decided?

The FAA has examined the findings of the CAA; reviewed all available information, including the service information referenced above; and determined that:

—the unsafe condition referenced in this document exists or could develop on other Pilatus Britten-Norman BN–2, BN–2A, BN–2B, BN–2T, BN–2T–4, and BN2A MK. III series airplanes of the same type design;

—the actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously referenced service bulletin.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 118 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work hour × $60 per hour = $60.	$1	$61	$61 × 118 = $7,198.

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
16 work hour × $60 per hour = $960	$230	$1,190

Is There a Modification I Can Incorporate Instead of Repetitively Inspecting the Throttle Friction-Shaft?

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 Pilatus Britten-Norman in collecting information and in performing fatigue analysis to determine whether a future design change may be necessary.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

PILATUS BRITTEN-NORMAN LTD.: Docket No. 2000–CE–47–AD

(a) *What airplanes are affected by this AD?* This AD affects the following Model BN–2, BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, BN–2T–4R, BN2A MK. III, BN2A MK. III–2, and BN2A MK. III–3 airplanes, all serial numbers, that are certificated in any category.

(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 loosening of the throttle friction adjustment beyond its normal limits. Such a condition could lead to damage to the throttle friction-adjuster or the retaining washer and split pin. This could allow the throttle quadrant shaft to laterally shift and impede the operation of the engine controls.

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

Actions	Compliance	Procedures
(1) Inspect the throttle friction-shaft for damage. Replace the split pin and washer.	Inspect within 100 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS. Accomplish the replacements prior to further flight after each inspection.	In accordance with the PROCEDURES section of BN Service Bulletin BN2/SB.272, dated July 2000.
(2) If damage is found on the throttle friction-shaft, replace the shaft.	Before further flight after each inspection where damage is found.	In accordance with the PROCEDURES section of BN Service Bulletin BN2/SB.272, dated July 2000.

(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 Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in British AD 003–07–2000, dated August 22, 2000.

Issued in Kansas City, Missouri, on October 26, 2001.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–27653 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2001–10666; Airspace Docket No. ASD 01–ASW–12]

Proposed Revision of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise that segment of Jet Route 180 (J–180) between the Daisetta, TX, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) and the Little Rock, AR, VORTAC by moving the route to the east over the new Sawmill, LA, VORTAC. The FAA is proposing this action to enhance aviation safety and the management of the aircraft operations in the Texas area.

DATES: Comments must be received on or before December 24, 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–2001–10666/Airspace Docket No. ASD 01–ASW–12 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 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX 76193–0500.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, 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 both docket numbers 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 2001–10666/Airspace Docket No. ASD 01–ASW–12.'' The postcard will be date/time stamped and returned to the commenter. 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

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 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's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The FAA is redesigning the nation's airspace to reduce the volume of air traffic operations in certain congested areas commonly referred to as ''choke-points.'' As part of this effort, the FAA believes that revising the affected segment of J–180 to reroute it over the new Sawmill, LA, VORTAC will alleviate air traffic congestion in specific ''choke-point'' areas. The FAA is therefore proposing this action to enhance air safety and the expeditious movement of aircraft through the area.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revise a segment of J–180 between the Daisetta, TX, VORTAC and the Little Rock, AR, VORTAC by moving the route eastward over the new Sawmill, LA, VORTAC. This action is necessary to support the national airspace redesign project to reduce air traffic congestion in identified choke-point'' areas.

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 Department of Transportation (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.

Jet routes are published in paragraph 2004 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document would be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004—Jet Routes

* * * * *

J–180 [Revised]

From Humble, TX; Daisetta, TX; Sawmill, LA; Little Rock, AR.

* * * * *

Issued in Washington, DC, on November 1, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–28001 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2001–9813; Airspace Docket No. 00–AWA–7]

RIN 2120–AA66

Proposed Modification of the Memphis Class B Airspace Area; TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Memphis, TN, Class B airspace area. Specifically, this action proposes to reconfigure the sub-area boundaries, add one new sub-area, and lower the altitude floor in certain segments of the Memphis Class B airspace area. In addition, the FAA is proposing to describe the boundaries of the Memphis Class B airspace area using the Memphis Very High Frequency Omnidirectional Range Tactical Air Navigation (VORTAC) facility as the reference point. The FAA is proposing this action to more efficiently align the Memphis Class B airspace area to better accommodate simultaneous parallel instrument landing system (ILS) approach procedures and simultaneous intersecting runway operations. This change would improve the management of air traffic operations and enhance safety in the Memphis Class B airspace area while accommodating the concerns of airspace users.

DATES: Comments must be received on or before January 7, 2002.

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 both docket numbers, FAA–2001–9813/ Airspace Docket No. 00-AWA–7, 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, ASO–500, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337.

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–2001–9813/Airspace Docket No. 00–AWA–7.'' The postcard will be date/time stamped and returned to the commenter. 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 through the internet at http://dms.dot.gov.

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, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Related Rulemaking Actions

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of Terminal Control Airspace (TCA) areas (now known as Class B airspace areas).

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated TCA (now known as Class B airspace areas) primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule discontinued the use of the term ''Terminal Control Area'' and replaced it with the designation ''Class B airspace area.'' This change in terminology is reflected in the remainder of this NPRM.

Background

The TCA (now Class B airspace) program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts as the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of these airspace areas afford the greatest protection for the greatest number of people by giving air traffic control increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

The standard configuration of these airspace areas contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limit of these airspace areas normally should not exceed 10,000 feet mean sea level (MSL), with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

On August 19, 1998, the FAA published the revision of the legal description of the Memphis Class B airspace area, TN, Final Rule (63 FR 44374). The FAA took this action due to the relocation of the Memphis VORTAC to a new position 2.85 NM south of the

site it had occupied. The Memphis VORTAC was relocated to accommodate airport expansion. This rule revised the Memphis Class B airspace area by changing the reference point for the description of the areas from the Memphis VORTAC to a point-in-space established at the Memphis VORTAC's former geographical coordinates. The intent of that action was to facilitate the relocation of the Memphis VORTAC without changing the actual dimensions, configuration, operating requirements, or charted depiction of the Memphis Class B airspace area.

Memphis International Airport has recorded a continuing increase in daily scheduled air carrier and air taxi operations. Between January 1998 and December 1999, Memphis has experienced a 7.81% growth in scheduled flights with an expected increase of 2.5% annually. Satellite airport operations traffic count is up 57% since 1997. The GA traffic count is up 5% since 1996.

User feedback and operational experience, since the August 19, 1998, revision of the Memphis Class B airspace area, has revealed that the use of a point-in-space reference, for describing the area, places pilots without global positioning system (GPS) navigation equipment in a difficult situation requiring them to remain clear of an area they could not readily identify. Additionally, the current airspace configuration has proven to be inefficient when conducting simultaneous ILS approaches due to the incompatibility with the instrument approach procedures. The current Class B configuration does not allow for the most efficient use of simultaneous parallel instrument approaches and simultaneous intersecting runway operations at Memphis International Airport.

Pre-NPRM Public Input

As announced in the **Federal Register** on March 14, 2000 (65 FR 13818), two pre-NPRM informal airspace meetings were held on April 27 and May 4, 2000, in Collierville and Memphis, TN, to allow local interested airspace users an opportunity to present input on the design of the planned alteration of the Memphis Class B airspace area. The response to the planned Class B airspace area modification from all participants was favorable. No written adverse comments were received during the 60-day comment period.

The Proposal

The FAA proposes to amend 14 CFR part 71 by modifying the Memphis, TN, Class B airspace area. Specifically, this action (depicted on the attached chart) proposes to expand the lateral limits of Areas A, B, and C, and establish a new Area E in order to improve the containment of turbo-jet aircraft within Class B airspace. In addition, the FAA proposes to redescribe the Memphis Class B airspace area using radials and mileages from the Memphis VORTAC instead of the current point-in-space latitude/longitude position. This change would simplify navigation in the Memphis terminal area for aircraft that are not GPS equipped.

Area A. The FAA proposes to reconfigure Area A (that area beginning at the surface up to 10,000 feet MSL), by slightly expanding the lateral dimensions of the surface area to provide the additional Class B airspace needed for simultaneous parallel ILS approach procedures and to accommodate secondary airport operations. With the exception of Bob White and Freeman Farm Airports, all secondary airports have been excluded from this surface area. Bob White Airport is a privately owned, uncharted airport located approximately 7 miles south southeast of Memphis and 2 miles east of Runway 36R final approach course. Freeman Farm is a privately owned, uncharted airport located approximately 7 miles southeast of Memphis and 5 miles east of Runway 36R final approach course. The FAA has concluded Letters of Agreement with the operators of these private airports to accommodate users and ensure the integrity of Class B airspace operations.

Area B. The FAA proposes to expand the lateral dimensions of Area B (that area beginning at 1,800 feet MSL up to 10,000 feet MSL). This change would ensure the containment of instrument procedures using a 300-foot-per-mile gradient and provide the additional airspace necessary to maximize the use of simultaneous parallel ILS approaches, as well as simultaneous intersecting runway operations using Runway 27. On the east side, the proposed expanded boundary of Area B (between the MEM 090° and 111° radials) has been adjusted to exclude the Olive Branch Airport (OLV) from Area B.

Area C. The FAA proposes to extend the boundaries of Area C (that area beginning at 3,000 feet MSL up to 10,000 feet MSL), outward to the MEM 30-mile arc in the segments to the north and south of the Memphis International Airport. This change would lower the floor of Class B airspace to 3,000 feet MSL in the Area C extensions to ensure the efficient use of simultaneous parallel approach procedures.

Area D. The FAA proposes to reconfigure Area D (that area beginning at 5,000 feet MSL up to 10,000 feet MSL) by reducing the size of the area. The revised Area D would consist of that airspace generally between the 20- and 30-mile arcs of the Memphis VORTAC, and bounded by the 199° radial clockwise to the 332° radial. The remaining portion of the current Area D airspace would be incorporated into the amended Area C, and the proposed new Area E.

Area E. The FAA proposes to establish a new Area E (that area beginning at 4,000 feet MSL up to 10,000 feet MSL) on the east side of the airport in airspace that is currently part of Area D. Area E would consist of that airspace generally between the 20-mile and 30-mile arcs of the MEM VORTAC and bounded by the MEM 019° radial, clockwise to the 151° radial. This change would lower the floor of Class B airspace from the current 5,000 feet MSL to 4,000 feet MSL. The lower floor of Class B airspace is required to contain Runway 27 approach procedures.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

Regulatory Evaluation Summary

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule: (1) Would generate benefits that justify its minimal costs and is not a ''significant regulatory action'' as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would not constitute a barrier to international trade; and (5) would not contain any Federal intergovernmental

or private sector mandate. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

This NPRM would modify the Memphis, TN, Class B airspace area. The proposed rule would reconfigure the sub-area boundaries, add one new sub-area and lower the altitude floor in certain segments of that airspace. In addition, the FAA is proposing to describe the boundaries of the Memphis Class B airspace area using the Memphis VORTAC facility as the reference point.

The NPRM would generate benefits for system users and the FAA in the form of enhanced operational efficiency and simplified navigation in the Memphis terminal area for aircraft that are not GPS equipped. Since Class B airspace is already in place at Memphis, and the modifications proposed are not a major expansion of Class B airspace, minimal costs would result. Thus, the FAA has determined that this proposed rule would be cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. If the determination is that it would, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposed rule may impose some minimal circumnavigation costs on some individuals operating in the Memphis area; but the proposed rule would not impose any costs on small business entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

The proposed rule is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this proposed rule.

Conclusion

In view of the minimal or zero cost of compliance of the proposed rule and the enhancements to operational efficiency that do not reduce aviation safety, the FAA has determined that the proposed rule would be cost-beneficial.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated September 1, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 3000—Subpart B-Class B Airspace

* * * * *

ASO TN B Memphis, TN [Revised]

Memphis International Airport (Primary Airport)
(lat. 35°02′33″N., long. 89°58′36″ W.)
Memphis VORTAC (MEM)
(lat. 35°00′54″ N., long. 89°59′00″W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 090° radial and the MEM 5-mile arc; thence clockwise along the 5-mile arc to the MEM 270° radial; thence west along the 270° radial to the 8-mile arc; thence clockwise along the 8-mile arc to the MEM 090° radial; thence west along the 090° radial to the point of beginning.

Area B. That airspace extending upward from 1,800 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 090° radial and the MEM 12-mile arc; thence west along the 090° radial to the MEM 9-mile arc; thence clockwise along the 9-mile arc to the MEM 111° radial; thence southeast along the 111° radial to the MEM 12-mile arc; thence clockwise along the 12-mile arc to the MEM 134° radial; thence southeast along the 134° radial to the MEM 16-mile arc; thence clockwise along the 16-mile arc to the MEM 217° radial; thence northeast along the 217° radial to the MEM 12-mile arc thence clockwise along the 12-mile arc to the MEM 313° radial; thence northwest along the 313° radial to the MEM 16-mile arc; thence clockwise along the 16-mile arc to the MEM 038° radial; thence southwest along the 038§ radial to the MEM 12-mile arc; thence clockwise along the 12-mile arc to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 019° radial and the MEM 30-mile arc; thence southwest along the 019° radial to the MEM 20-mile arc; thence clockwise along the 20-mile arc to the MEM 151° radial; thence southeast along the 151° radial to the 151° radial at 27-miles; thence via a line drawn southwestward to the intersection of the MEM 163° radial and the MEM 30-mile arc; thence clockwise along the 30-mile arc to the MEM 199° radial; thence northeast along the 199° radial to the MEM 20-mile arc; thence clockwise along the 20-mile arc to the MEM 332° radial; thence northwest along the 332° radial to the 332° radial at 29-miles; thence via a line drawn northeastward to the intersection of the MEM 338° radial and the MEM 30-mile arc; thence clockwise along the 30-mile arc to the point of beginning.

Area D. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 199° radial and the MEM 20-mile arc; thence southwest along the 199° radial to the MEM 30-mile arc; thence clockwise along the 30-mile arc to the MEM 302° radial; thence via a line drawn northeastward to the MEM 332° radial at 29-miles; thence southeast along the MEM 332° radial to the MEM 20-mile arc; thence counterclockwise along the 20-mile arc to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the MEM 019° radial and the MEM 30-mile arc; thence clockwise along the 30-mile arc to the MEM 103° radial; thence via a line drawn southwestward to the MEM 151° radial at 27-miles; thence northwest along the 151° radial to the MEM 20-mile arc; thence counterclockwise along the 20-mile arc to the MEM 019° radial; thence northeast along the 019° radial to the point of beginning.

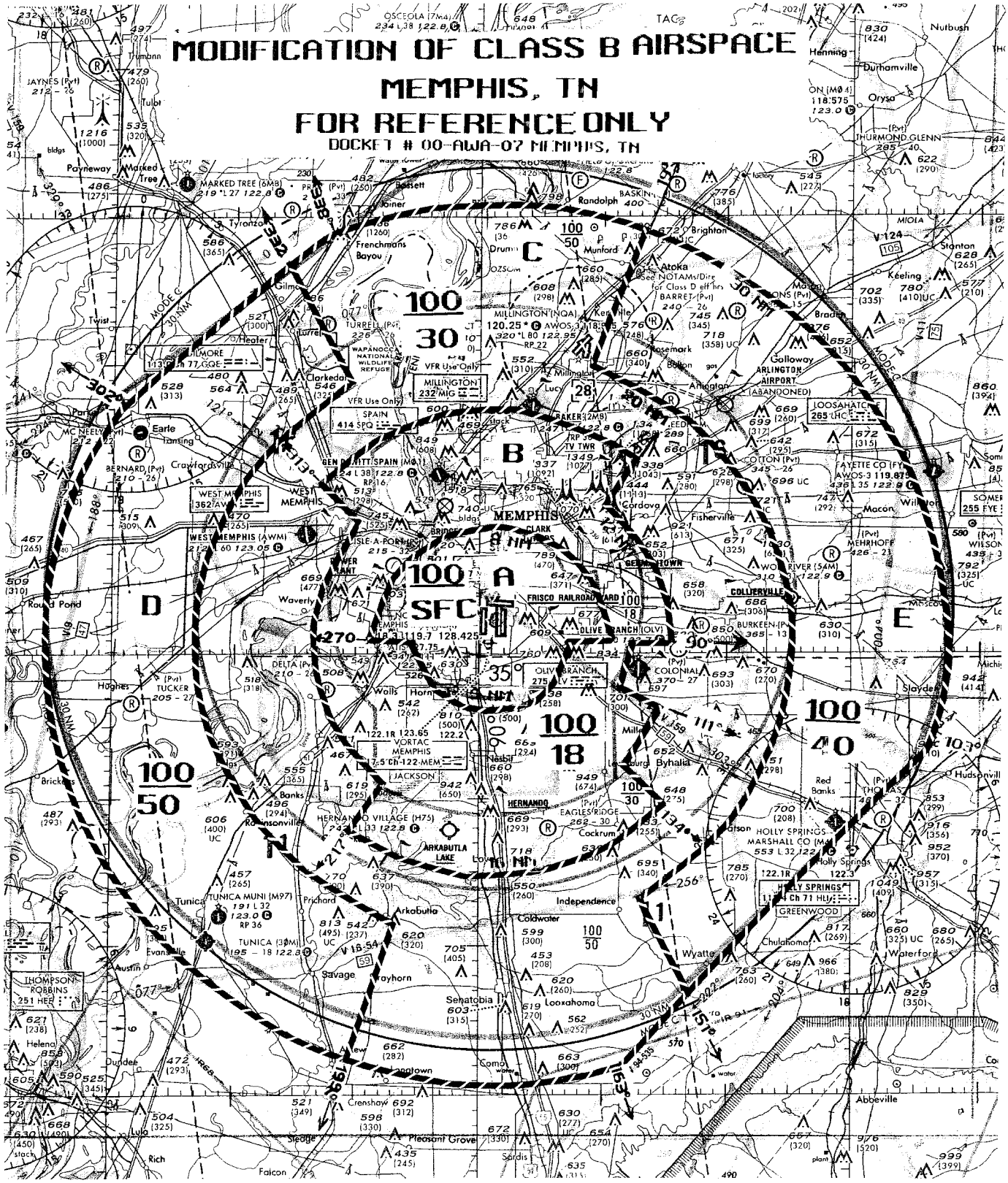
* * * * *

Issued in Washington, DC, on October 29, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

BILLING CODE 4910–13–P


MODIFICATION OF CLASS B AIRSPACE
MEMPHIS, TN
FOR REFERENCE ONLY
DOCKET # 00-AWA-07 MEMPHIS, TN
MEMPHIS
MILLINGTON (NQA)
WEST MEMPHIS
MILLINGTON
SPAIN
ARLINGTON AIRPORT (ABANDONED)
FRISCO RAILROAD YARD
OLIVE BRANCH
COLLIERVILLE
GREENWOOD
HOLLY SPRINGS
MARSHALL CO (M04)
TUNICA MUNI (M97)
THOMPSON-ROBBINS
HERNANDO
ARKABUTLA LAKE
JACKSON
Independence
Coldwater
Looxahoma
Senatobia
Como
Pleasant Grove
Sardis
Abbeville
Waterford
Chulahoma
Wyatte
Red Banks
Holly Springs
Byhalia
Walls
Horn Lake
Nesbit
Hernando
Eagles Ridge
Cockrum
Arkabutla
Tunica
Prichard
Savage
Hayhorn
Austin
Evansville
Dundee
Helena
Sledge
Falcon
Rich
Lula
Crenshaw
Langtown
Waverly
Round Pond
Isle-A-Port
Delta
Tucker
Hughes
Brickeys
Robinsonville
Banks
Jaynes
Payneway
Marked Tree
Tyronza
Twist
Earle
Crawfordsville
Bernard
Mc Neely
Parkin
Clarkedale
Turrell
Wapanocca National Wildlife Refuge
Frenchmans Bayou
Gilmore
Heater
Trumann
Tulot
Osceola
Nutbush
Henning
Durhamville
Oryss
Thurmond Glenn
Randolph
Brighton
Munford
Atoka
Barret
Kerrville
Rosemark
Bolton
Galloway
Arlington
Millington
Lucy
Baker
Joosahatch
Cotton
Fayette Co (FYE)
Macon
Fisherville
Cordova
Mehrhoff
Burkeen
Colonial
Slayden
Hudsonville
Millington
Munford
Drummonds
Gilmore
Twist
Turrell
Heater
Clarkedale
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Earle
Tyronza
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Payneway
Jaynes
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Thurmond Glenn
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Baker
Joosahatch
Cotton
Fayette Co (FYE)
Macon
Fisherville
Cordova
Mehrhoff
Burkeen
Colonial
Slayden
Hudsonville
Abbeville
Waterford
Chulahoma
Wyatte
Red Banks
Holly Springs
Byhalia
Walls
Horn Lake
Nesbit
Hernando
Eagles Ridge
Cockrum
Arkabutla
Tunica
Prichard
Savage
Hayhorn
Austin
Evansville
Dundee
Helena
Sledge
Falcon
Rich
Lula
Crenshaw
Langtown
Waverly
Round Pond
Isle-A-Port
Delta
Tucker
Hughes
Brickeys
Robinsonville
Banks
Jaynes
Payneway
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Tyronza
Twist
Earle
Crawfordsville
Bernard
Mc Neely
Parkin
Clarkedale
Turrell
Wapanocca National Wildlife Refuge
Frenchmans Bayou
Gilmore
Heater

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AAL–1]

Proposed Revocation of Class E Airspace; Umiat, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposed to revoke Class E airspace at Umiat, AK. The Umiat airport no longer meets the requirements for Class E airspace to protect Instrument Flight Rules (IFR) operations at Umiat, AK. Adoption of this proposal would result in the removal of controlled airspace at Umiat, AK.

DATES: Comments must be received on or before December 24, 2001.

ADDRESSES: Send comments on the proposal in triplicate to:

Manager, Operations Branch, AAL–530, Docket No. 01–AAL–1, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at *http://www.alaska.faa.gov/at* or at address *http://162.58.28.41/at.*

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, AAL–535, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van-Haastert@faa.gov. Internet address: *http://www.alaska.faa.gov/at* or at address *http://162.58.28.41/at.*

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 Airspace Docket No. 01–AAL–1.'' The postcard will be date/time stamped and returned to the commenter. 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 Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, 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 Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Any person may obtain a copy of this NPRM by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the individual(s) identified in the **FOR FURTHER INFORMATION CONTACT** section.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revoking Class E airspace at Umiat, AK. The intended effect of this proposal is the removal of the Class E controlled airspace for IFR operations at Umiat, AK.

The Umiat airport does not have a standard instrument approach procedure, it is unattended, and does not meet the requirements to be used as an IFR alternate. The Colored Federal Airway Amber 4 (A–4) was realigned and Colored Federal Airway Amber 6 (A–6) was revoked on December 3, 1998 [63 FR 53279 5 Oct 1998 Airspace Docket 98–AAL–6] in conjunction with the removal of the Umiat Nondirectional Radio Beacon (NDB). The Umiat NDB was decommissioned in October 1999 resulting in the loss of the instrument approach procedure. With the subsequent cancellation of the A-Paid weather observer contract, there are now no aviation weather sources at Umiat, AK. Thus, the Umiat airport does not qualify for Class E airspace.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9J, *Airspace Designations and Reporting Points,* dated September 1, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, *Airspace Designations and Reporting Points,* dated September 1, 2001, and effective September 16, 2001, is to be amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Umiat, AK [Revoked]

* * * * *

Issued in Anchorage, AK, on October 30, 2001.

Stephen P. Creamer,

Assistant Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 01–27990 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–26]

Proposed Establishment of Class E Airspace; Kayenta, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area at Kayenta, AZ. The establishment of a Special Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) RNAV (GPS) Runway (RWY) 02, RNAV (GPS) RWY 20 SIAP, and Non-Directional Radio Beacon (NDB) SIAP to Bedard Field, Kayenta, AZ has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the RNAV (GPS) RWY 02, RNAV (GPS) RWY 20, and NDB SIAP to Bedard Field. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Bedard Field, Kayenta, AZ.

DATES: Comments must be received on or before December 15, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–26, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6611.

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 the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AWP–26.'' The postcard will be date/time stamped and returned to the commenter. 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 Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, 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

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by establishing a Class E airspace area at Kayenta, AZ. The establishment of a Special RNAV (GPS) RWY 02 SIAP, RNAV (GPS) RWY 20 SIAP, and a NBD SIAP at Bedard Field has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the Special RNAV (GPS) RWY 02 SIAP, RNAV (GPS) RWY 20 SIAP, and NBD SIAP to Bedard Field. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the Special RNAV (GPS) RWY 02 SIAP, RNAV (GPS) 20 SIAP, and NDB SIAP to Bedard Field, Kayenta, AZ. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9J dated September 1, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

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

would 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 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated September 1, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

AWP AZ E5 Kayenta, AZ [NEW]

Bedard Field

(Lat. 36°28′18″N, long. 110°25′05″W)

That airspace extending upward from 700 feet above the surface within a 6.6 mile radius of Bedard Field, and that airspace within 2.0 miles each side of the 219° bearing from the airport extending from the 6.6 mile radius to 10 miles southwest of Bedard Field, and that airspace with 1.0 mile each side of the 034° bearing from the airport extending from the 6.6 mile radius to 11 miles northeast of Bedard Field.

* * * * *

Issued in Los Angeles, California, on October 23, 2001.

Stephen J. Loyd,

Acting Assistant Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 01–27991 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Revisions of the Air Traffic Control (ATC) Airspace and Procedures, Anchorage Terminal Area, Anchorage, Alaska; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA will hold a public meeting on ATC airspace and procedures affecting the Anchorage Terminal Area, Anchorage, AK. The objective of this meeting is to provide interested persons a final opportunity to review specific proposed procedures formulated in the Anchorage Terminal Area Airspace and Procedures Revision Project prior to their implementation. The goal of this project is to maximize efficiency and improve safety for aircraft routes and ATC procedures used in the airspace surrounding Anchorage, Alaska. The project relates to operations by aircraft operating under Instrument Flight Rules (IFR) and Visual Flight Rules (VFR). This meeting will outline proposals affecting VFR operations within the Anchorage Terminal Area. Alternatives developed as a result of this and other meetings may involve changes to existing regulatory airspace.

DATES: The meeting will be on Friday, December 7, 2001, from 6:00 PM to 9:00 PM.

ADDRESSES: Multi-Purpose Room at the Spenard Community Recreation Center, 2020 West 48th Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: John Craft, Anchorage Airport Traffic Control Tower (ATCT), 5200 West International Airport Road, Anchorage, AK 99502; telephone: (907) 271–2702; fax: (907) 271–2960; email: john.craft@faa.gov. The Spenard Community Recreation Center telephone number is (907) 343–4160.

SUPPLEMENTARY INFORMATION:

History and Background

Historical increases and projections for air traffic activity in the Anchorage Terminal Area indicate that revision to air traffic routes and air traffic control procedures used in the Anchorage area are necessary in order to continue to provide safe and efficient air traffic control service to airspace users. Aircraft operations in the Anchorage area have increased 21% for the period from January 1, 1996, to December 31, 2000, and are projected to increase at an approximate rate of 5% annually through the year 2020.

An initial public workshop for this project was held on April 17, 2001, at the Spenard Community Recreation Center. Proposed new procedures were displayed and comments on the proposals were solicited from the public. Changes based on public comments and suggestions have been made and these changes will be presented at this meeting. Electronic copies of the original proposals as well as the latest changes are available at the project web site, http://www.alaska.faa.gov/ame under the ''Route Graphics'' menu item. Paper copies may be obtained by contacting Curt Faulk at the Anchorage ATCT, telephone: 271–2701.

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the FAA Alaskan Region Terminal Focus Leadership Team (FLT).

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient capacity for expected participation. There will be no admission fee nor other charge to attend and participate.

(c) Representatives of Anchorage ATCT, Merrill Field ATCT, and Anchorage Terminal Radar Approach Control will be presenting specific procedural changes concerning VFR operations in the Anchorage area. A FAA Air Traffic Division representative will be present to discuss environmental concerns.

(d) Any person who wishes to present a position paper to FAA representatives pertinent to the revision of ATC airspace or procedures may do so. In order to be included in the administrative record for the project, all submissions must contain the name and address of the author.

(e) Persons wishing to hand out pertinent position papers to attendees should present two copies to the presiding officer and have sufficient additional copies available for all attendees.

(f) The meeting will not be formally recorded. However, informal tape recordings may be made of presentations to ensure that each respondent's comments are noted accurately.

(g) An official verbatim transcript or minutes of the informal airspace meeting will not be made. However, a list of the attendees, written statements received from attendees during and after the meeting and a digest of discussions

during the meeting will be included in the administrative record for the project.

(h) Every reasonable effort will be made to hear all concerns of interested persons consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the team for up to thirty (30) days after the close of the meeting.

Agenda

(a) Opening remarks and discussion of meeting procedures

(b) Presentation of changes to proposed procedures by ATC facility representatives

(c) Question and answer period

(d) Closing comments.

* * * * *

Issued in Anchorage, AK, on October 30, 2001.

Stephen P. Creamer,

Assistant Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 01–27988 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Chapter VII

[Docket No. 011024258–1258–01]

Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Request for comments on foreign policy-based export controls.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BXA is seeking comments on how existing foreign policy-based export controls have affected exporters and the general public.

DATES: Comments must be received by November 30, 2001.

ADDRESSES: Written comments (three copies) should be sent to Sheila Quarterman, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Controls Division, Bureau of Export Administration, Telephone: (202) 482–5400. Copies of the current Annual Foreign Policy Report to the Congress are available at *www.bxa.doc.gov/press/2001/ForeignPolicyReport/Default.htm* and copies may also be requested by calling the Office of Strategic Trade and Foreign Policy Controls.

SUPPLEMENTARY INFORMATION: The current foreign policy controls maintained by the Bureau of Export Administration (BXA) are set forth in the Export Administration Regulations (EAR), parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Special Country Controls). These controls apply to: high performance computers (§ 742.12); significant items (SI): hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14); encryption items (§ 742.15 and § 744.9); crime control and detection commodities (§ 742.7); specially designed implements of torture (§ 742.11); regional stability commodities and equipment (§ 742.6); equipment and related technical data used in the design, development, production, or use of missiles (§ 742.5 and § 744.3); chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§ 742.2 and § 744.4); activities of U.S. persons in transactions related to missile technology or chemical or biological weapons proliferation in named countries (§ 744.6); nuclear propulsion (§ 744.5); aircraft and vessels (§ 744.7); embargoed countries (part 746); countries designated as supporters of acts of international terrorism (§§ 742.8, 742.9, 742.10, 742.19, 746.2, 746.3, and 746.7); and, Libya (§§ 744.8 and 746.4). Attention is also given in this context to the controls on nuclear-related commodities and technology (§§ 742.3 and 744.2), which are, in part, implemented under section 309(c) of the Nuclear Non Proliferation Act.

Under the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), export controls maintained for foreign policy purposes require annual extension. Section 6 of the EAA requires a report to Congress when foreign policy-based export controls are extended. Although the Export Administration Act (EAA) expired on August 20, 2001, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA, in Executive Order of August 17, 2001 (66 FR 44025, August 22, 2001). The Department of Commerce, insofar as appropriate, is following the provisions of section 6 in reviewing foreign policy-based export controls, requesting public comments on such controls, and submitting a report to Congress.

In January 2001, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy controls then in effect.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy controls for another year. Among the criteria considered in determining whether to continue or revise U.S. foreign policy controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

2. Whether the foreign policy purpose of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;

4. Whether reaction of other countries to the extension of such controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;

5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and

6. The ability of the United States to enforce the controls effectively.

BXA is particularly interested in the experience of individual exporters in complying with the proliferation controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BXA is also interested in industry information relating to the following:

1. Information on the effect of foreign policy controls on sales of U.S. products to third countries (i.e., those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy controls.

2. Information on controls maintained by U.S. trade partners (i.e., to what

extent do they have similar controls on goods and technology on a worldwide basis or to specific destinations)?

3. Information on licensing policies or practices by our foreign trade partners which are similar to U.S. foreign policy controls, including license review criteria, use of conditions, requirements for pre and post shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).

4. Suggestions for revisions to foreign policy controls that would (if there are any differences) bring them more into line with multilateral practice.

5. Comments or suggestions as to actions that would make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy controls on the trade or acquisitions by intended targets of the controls.

7. Data or other information as to the effect of foreign policy controls on overall trade, either for individual firms or for individual industrial sectors.

8. Suggestions as to how to measure the effect of foreign policy controls on trade.

9. Information on the use of foreign policy controls on targeted countries, entities, or individuals.

BXA is also interested in comments relating generally to the extension or revision of existing foreign policy controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BXA in reviewing the controls and developing the report to Congress.

All information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

Copies of the public record concerning these regulations may be requested from: Bureau of Export Administration, Office of Administration, U.S. Department of Commerce, Room 6883, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–0637. This component does not maintain a separate public inspection facility. Requesters should first view BXA's website (which can be reached through *http://www.bxa.doc.gov*). If requesters cannot access BXA's website, please call the number above for assistance.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 01–27878 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1331

[Docket No. NHTSA–2001–10917]

RIN 2127–AG–91

Withdrawal of Proposed Rule on State-Issued Driver's Licenses and Comparable Identification Documents

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

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed rule that was intended to implement the requirements contained in section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provided that a Federal agency could only accept as proof of identity a driver's license or identification document that conformed to specific requirements, in accordance with regulations issued by the Secretary of Transportation. Congress subsequently repealed section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

DATES: The proposed rule is withdrawn as of November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Holdsworth, Acting Chief, Driver Register and Traffic Records Division, NTS–32, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–4800, or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC–30, NHTSA, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: The Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. 104–208, was signed into law on September 30, 1996. The Omnibus Act included, as Title VI of Division C, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (hereinafter, the ''Immigration Reform Act''). The purpose of the Immigration Reform Act was to improve deterrence of illegal immigration into the United States.

Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provided that, after October 1, 2000, Federal agencies could not accept driver's licenses, or other comparable identification documents issued by a State, as proof of identity unless the driver's license or identification document conformed to certain requirements.

A. Statutory Requirements

Section 656(b) established three requirements that State-issued driver's licenses or other comparable identification documents had to meet, to be acceptable as proof of identity:

1. *Application Process*—The application process for the driver's license or identification document was to include the presentation of such evidence of identity as required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators (AAMVA).

2. *Form*—The driver's license or identification document was to be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with AAMVA. The form was to contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the driver's license or identification document for fraudulent purposes and to limit the use of the driver's license or identification document by imposters.

3. *Social Security Number*—The driver's license or identification document was required to contain a social security number that could be read visually or by electronic means, unless the State issuing such driver's license or identification document met certain conditions.

To meet the conditions, the State that did not require the driver's license or identification document to contain a social security number would have had to require every applicant for a driver's license or identification documents to submit his or her social security number. The State would also have had to verify the validity of the social security number with the Social Security Administration (SSA).

B. Proposed Regulations

The Immigration Reform Act required that the Secretary of Transportation issue regulations governing State-issued driver's licenses and comparable

identification documents after consulting with the American Association of Motor Vehicle Administrators (AAMVA).

NHTSA consulted with AAMVA, and with interested Federal agencies before issuing a notice of proposed rulemaking (NPRM) on June 17, 1998, 63 FR33220, to implement Section 656(b). The proposed requirements related to such matters as evidence of identity, form and security features, use of the social security number, certification of compliance, and the availability of grants to assist States in meeting these requirements.

The agency received a total of 2,591 comments, the vast majority of which strongly opposed the agency's proposal. The most frequent objections were based on privacy and civil liberty concerns.

Congress also received an overwhelming number of negative comments regarding section 656(b) and the agency's proposal to implement that section. On October 9, 1999, Congress repealed section 656(b) Pub. L. 106–69, 113 Stat. 1027. Accordingly, the proposed rule to implement the requirements contained in section 656(b), published on June 17, 1998, at 63 FR 33220, entitled State-Issued Driver's Licenses and Comparable Identification Documents, is hereby withdrawn.

Issued on: November 1, 2001.

Jeffrey W. Runge,

Administrator.

[FR Doc. 01–28007 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125161–01]

RIN 1545–BA05

Conforming Amendments to Section 446

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: On July 18, 1995, the Treasury and the IRS published final regulations governing the intercompany transaction system of the consolidated return regulations. Those regulations state that the timing rules of the intercompany transaction system are a method of accounting. At the time of the publication of those regulations, no amendment was made to the regulations promulgated under section 446 to coordinate with that statement. This document contains proposed regulations confirming that the timing rules of the intercompany transaction regulations are a method of accounting.

DATES: Written or electronic comments and requests for a public hearing must be received by January 7, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU, room 5226 (REG–125161–01), Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU, room 5226 (REG–125161–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site at http://www.irs.gov/tax__regs/regslist.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Marie C. Milnes-Vasquez or Frances Kelly, (202) 622–7770, or Jeffery G. Mitchell (202) 622–4930; concerning submissions and/or requests for a public hearing, Guy Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation

On July 18, 1995, the Treasury and the IRS published in the **Federal Register** (60 FR 36671 [1995–2 C.B. 147]) final regulations under § 1.1502–13 governing the intercompany transaction system of the consolidated return regulations. Included in such regulations was an express statement that ''[t]he timing rules of [the intercompany transaction regulations] are a method of accounting for intercompany transactions, to be applied by each member in addition to the member's other methods of accounting.'' § 1.1502–13(a)(3)(i). At the time of the publication of those final regulations, no amendment was made to the regulations promulgated under section 446 to coordinate with the statement in § 1.1502–13(a)(3)(i) that the timing rules of § 1.1502–13 are a method of accounting.

In *General Motors* v. *Commissioner,* 112 T.C. 270 (1999), the Tax Court determined that the timing rule of former § 1.1502–13(b)(2) was not a method of accounting for purposes of section 446(e). The proposed regulations included in this document amend § 1.446–1 to confirm the IRS's position that the timing rules of current § 1.1502–13 are a method of accounting.

Proposed Effective Date

The regulations in this section are proposed to apply to consolidated return years beginning on or after November 7, 2001.

Special Analyses

It has been determined that this notice of proposed rule making is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, because the proposed rule does not impose a collection of information on small entities, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are timely submitted to the IRS. All comments will be made available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Marie C. Milnes-Vasquez, Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.446–1 is amended by adding paragraph (c)(2)(iii) to read as follows:

§ 1.446–1 General rule for methods of accounting.

* * * * *

(c) * * *

(2) * * *

(iii) The timing rules of § 1.1502–13 are a method of accounting for intercompany transactions (as defined in § 1.1502–13(b)(1)(i)), to be applied by each member of a consolidated group in addition to the member's other methods of accounting. See § 1.1502–13(a)(3)(i). This paragraph is applicable to consolidated return years beginning on or after November 7, 2001.

* * * * *

Par. 3. In § 1.1502–13, the second sentence of paragraph (a)(3)(i) is revised to read as follows:

§ 1.1502–13 Intercompany transactions.

(a) * * *

(3) * * *

(i) * * * See § 1.1502–17 and, with regard to consolidated return years beginning on or after November 7, 2001, § 1.446–1(c)(2)(iii). * * *

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–27970 Filed 11–6–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–247–FOR]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Ohio regulatory program (hereinafter, the ''Ohio program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Ohio proposes revisions to its rule defining ''inactive coal mining and reclamation operation'' to include permits containing restored prime farmland when certain requirements have been met. Ohio intends to revise its program to improve operational efficiency.

DATES: We will accept written comments on this amendment until 4:00 p.m., e.s.t. on December 7, 2001. If requested, we will hold a public hearing on the amendment on December 3, 2001. We will accept requests to speak until 4:00 p.m., e.s.t. on November 23, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Mr. George Rieger at the address listed below.

You may review copies of the Ohio program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Appalachian Regional Coordinating Center.

Mr. George Rieger, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, (412) 937–2153.

Mr. Michael Sponsler, Chief, Ohio Department of Natural Resources, Division of Mineral Resources Management, 1855 Fountain Square Court, Columbus, OH 43224, (614) 265–6893.

FOR FURTHER INFORMATION CONTACT: George Rieger, Telephone: (412) 937–2153. Internet: grieger@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio program in the August 10, 1982, **Federal Register** (47 FR 34717). You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.15 and 935.25.

II. Description of the Proposed Amendment

By letter dated September 13, 2001, Ohio sent us a proposed amendment to its program (Administrative Record No. OH–2181–00) under SMCRA (30 U.S.C. 1201 *et seq.*). Ohio sent the amendment to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provision of the Ohio Administrative Code (O.A.C.) that Ohio proposes to revise is: O.A.C 1501:13–14–01, Inspections.

Specifically, Ohio proposes to revise the definition of ''inactive coal mining and reclamation operation'' with respect to prime farmland. Under the current rule, ''inactive coal mining and reclamation operation'' means an operation:

(a) For which the chief has secured from the permittee the written notice required under paragraph (A) of rule 1501:13–9–16 of the Administrative Code;

(b) Conducted under a D-permit, for which reclamation phase II as defined in (B)(1)(b)(I, II, AND IV) of rule 1501:13–7–05 of the Administrative Code has been completed.

The proposed amendment would add the following language to the end of part (b) of the current rule:

With respect to prime farmland, soil replacement has been carried out in accordance with the requirements of Rule 1501:13–13–03 of the Administrative Code and Division (A)(7) of Section 1513.16 of the Revised Code and sufficient Ground Cover has been established to prevent erosion or, where row crops are the approved reference crop, the initial planting has occurred.

Because the required frequency of inspections is lower for inactive mine sites than active mine sites, Ohio asserted in its September 13, 2001 letter that this proposed rule revision would help it to effectively and efficiently manage its inspection resources in the future.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the program.

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain

only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Appalachian Regional Coordinating Center may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. OH–247–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Appalachian Regional Coordinating Center at (412) 937–2153.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on November 23, 2001. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard. If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A(2)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for

which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C.804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 19, 2001.

Roger Calhoun,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 01–27982 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF75

Endangered and Threatened Wildlife and Plants; Re-opening of Comment Period for the Proposal to List *Hackelia venusta* (Showy Stickseed)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; re-opening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the re-opening of the comment period for the proposed listing as endangered for *Hackelia venusta* (showy stickseed) under the Endangered Species Act of 1973, as amended (Act). We are re-opening the comment period to accommodate the public notice requirement of the Act. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in the final rule.

DATES: We will accept public comments until December 7, 2001.

ADDRESSES: Written comments and information should be submitted to Field Supervisor, Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Drive SE., Suite 102, Lacey, Washington 98503–1263. For the electronic mail address, and further instructions on commenting, refer to Public Comments Solicited section of this notice.

FOR FURTHER INFORMATION CONTACT: For general information, contact Ted Thomas or James Michaels, at the above address (telephone 360/753–9440; facsimile 360/753–9518).

SUPPLEMENTARY INFORMATION:

Background

Hackelia venusta (showy stickseed) is a showy perennial herb of the Borage family (Boraginaceae). It is a short, moderately stout species, 20 to 40 centimeters (cm) (8 to 16 inches (in.)) tall, often with numerous, erect to ascending stems from a slender taproot, and has large, white, five-lobed flowers (Barrett *et al.* 1985). *Hackelia venusta* grows in openings within the ponderosa pine (*Pinus ponderosa*) and Douglas-fir (*Pseudotsuga menziesii*) forest types in one location in Tumwater Canyon, Chelan County, Washington. This population contains approximately 140 plants. Threats to this species include competition and shading from native trees and shrubs, encroachment by nonnative plant species, wildfire and fire suppression, and low seedling establishment. Reproductive vigor may be depressed because of the plant's small population size and limited gene pool.

Pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), *Hackelia venusta* was proposed for listing as an endangered species on February 14, 2000 (65 FR 7339). The original comment period closed on April 14, 2000. We intend to re-open the comment period for an additional 30 days to allow all interested parties to comment on the proposed rule.

Public Comments Solicited

We will accept written comments and information during this re-opened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Drive SE., Suite 102, Lacey, Washington 98503–1263.

(2) You may send comments by electronic mail (e-mail) to: *fw1wwo_showystickseed@r1.fws.gov*. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: RIN 1018-AF75'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Western Washington Fish and Wildlife Office at telephone number 360/753–9440.

(3) You may hand-deliver comments to our Western Washington Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the proposed rule is available on the Internet at our website ''*www.fws.gov*'' or by writing to the Field Supervisor at the address under (1) above.

Authors

The primary authors of this notice is Barb Behan, U.S. Fish and Wildlife

Service, Regional Office, 911 NE. 11th Avenue, Portland, Oregon 97232–4181, and Ted Thomas (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 28, 2001.

Donald V. Friberg,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 01–27892 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20 and 21

RIN 1018–A107

Migratory Bird Hunting and Permits; Regulations for Managing Harvest of Light Goose Populations; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; correction.

SUMMARY: On October 12, 2001 the U.S. Fish and Wildlife Service published a proposal to authorize new regulations to increase harvest of overabundant light goose populations (greater and lesser snow geese and Ross' geese). Such regulations are proposed for States in the Atlantic, Mississippi, and Central Flyways. This correction adds New Jersey to the list of Atlantic Flyway States being proposed for eligibility for such regulations.

DATES: Comments on this proposed rule must be received by December 14, 2001.

ADDRESSES: 1. Comments should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240. Alternatively, comments may be submitted electronically to the following address: white_goose_eis@fws.gov.

2. The public may inspect comments during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

3. You may obtain copies of the draft environmental impact statement from the above address, or by downloading it from our web site at http://migratorybirds.fws.gov/issues/snowgse/tblcont.html.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, (703) 358–1714; or James Kelley (612) 713–5409.

SUPPLEMENTARY INFORMATION: On October 5, 2001 (66 FR 51274) we notified the public of the availability of a Draft Environmental Impact Statement (DEIS) on light goose management. The DEIS analyzes several alternatives for addressing habitat degradation associated with overabundant light goose populations. On October 12, 2001 (66 FR 52077) we published a proposed rule to authorize new regulations that would increase harvest of certain light goose populations in the Atlantic, Mississippi, and Central Flyways. The proposal corresponds to our preferred alternative identified in the DEIS. We inadvertently omitted New Jersey from the list of States that are proposed as being eligible to implement special light goose regulations. This correction adds New Jersey to the list of eligible States.

Correction

Accordingly, making the following corrections to FR Doc. 01–25612 published at 66 FR 52077 on October 12, 2001:

1. On page 52088 in columns two and three, correct paragraphs § 20.21 (b) and (g) to read as follows:

§ 20.21 What hunting methods are illegal?

* * * * *

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. This restriction does not apply during a light-goose-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

* * * * *

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. This restriction does not apply during a light-goose-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed while hunting light geese in Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

* * * * *

2. On page 52089 in column one, correct paragraph § 21.60(c)(1) to read as follows:

§ 21.60 Conservation order for light geese.

* * * * *

(c) * * *

(1) The following States, or portions of States, that are contained within the boundaries of the Atlantic, Mississippi, and Central Flyways: Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

* * * * *

Dated: October 31, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–27940 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 66, No. 216
Wednesday, November 7, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–076–1]

Notice of Request for Reinstatement of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an information collection in support of the Foreign Animal Disease Surveillance Program.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked by January 7, 2002.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–076–1, 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. 01–076–1.

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: For information regarding the Foreign Animal Disease Surveillance Program, contact Dr. Aida Boghossian, Senior Staff Veterinarian, Emergency Programs, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737; (301) 734–8073. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Foreign Animal Disease/Emerging Disease Investigation (FAD/EDI) Database.

OMB Number: 0579–0071.

Type of Request: Reinstatement of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) is responsible for administering regulations intended to prevent foreign diseases of livestock or poultry from being introduced into the United States, for conducting a surveillance program for the early detection of such foreign animal diseases, and for eradicating such foreign animal diseases if they are detected.

Through our Foreign Animal Disease Surveillance Program, the Emergency Programs division of Veterinary Services, APHIS, compiles essential epidemiological and diagnostic data that are used to define foreign animal diseases and their risk factors. When a potential foreign animal disease incident is reported, APHIS dispatches a foreign animal disease veterinary diagnostician to the site to conduct an investigation.

The diagnostician obtains vital epidemiologic data by conducting field investigations, including sample collection, and by interviewing the owner or manager of the premises being investigated.

These important data include such items as the number of sick or dead animals on the premises, the results of necropsy examinations, vaccination information on the animals in the flock or herd, the level of biosecurity practices at the site, whether any animals were recently moved out of the herd or flock, whether any new animals were recently introduced into the herd or flock, and detailed geographic data concerning premises location.

The diagnostician records this information on VS Form 12–27. Information from this form is then entered into our Foreign Animal Disease/Emerging Disease Investigation database.

VS Form 12–27 is used for both task force emergency disease investigations and all suspect foreign animal disease investigations. After laboratory confirmation of a specific foreign animal disease, the information collected on the form ensures prompt attention and followup by a disease eradication specialist.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collective activity for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Owners and operators of livestock and poultry producing operations, State personnel who assist with information collection.

Estimated number of respondents: 535.

Estimated number of responses per respondent: 2.

Estimated annual number of responses: 1,070.

Estimated total annual burden on respondents: 1,070 hours. (Due to

averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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.

Done in Washington, DC, this 1st day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–27934 Filed 11–6–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–087–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the swine health protection program.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked by January 7, 2002.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–087–1, 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. 01–087–1.

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: For information on the swine health protection program, contact Dr. Arnold Taft, Senior Staff Veterinarian, National Animal Health Programs Staff, VS, APHIS, 4700 River Road Unit 43, Riverdale MD 20737, (301) 734–7708. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles,APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION: *Title:* Swine Health Protection.

OMB Number: 0579–0065.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is responsible for preventing the spread of contagious, infectious, or communicable diseases of livestock or poultry from one State to another and for eradicating such diseases from the United States when feasible.

The Swine Health Protection Act prohibits the feeding of garbage to swine unless the garbage has been treated to kill disease organisms. Untreated garbage is one of the primary media through which numerous infectious and communicable diseases are transmitted to swine. Therefore, APHIS' regulations promulgated under the Swine Health Protection Act, which are located at 9 CFR part 166, require that before garbage may be fed to swine, it must be treated at a facility holding a valid permit to treat the garbage and must be treated according to the regulations.

APHIS requires certain information in order to license (issue a permit to) a facility to operate and in order to monitor the facility for compliance with the regulations. This information is collected from applications for a license to operate a garbage treatment facility, records of the destination and date of removal of all food waste or garbage from the treatment facility, and food waste reports. With this information, we are able to carefully monitor garbage treatment facilities to ensure that they are meeting our requirements. The information provided by these information collection activities is critical in preventing the interstate spread of various swine diseases and, therefore, plays a vital role in our swine health protection program.

We are asking the Office of Management and Budget (OMB) to approve the continued use of these information collection activities.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning these information collection activities. These comments will help us:

(1) Evaluate whether the 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 our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.6790697 hour per response.

Respondents: Owners/operators (licensees) of garbage treatment facilities and State animal health authorities.

Estimated annual number of respondents: 383.

Estimated annual number of responses per respondent: 2.245.

Estimated annual number of responses: 860.

Estimated total annual burden on respondents: 584 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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.

Done in Washington, DC, this 1st day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–27935 Filed 11–6–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Proposed collection: comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBS), Rural Utilities Service (RUS), and the Farm Service Agency's (FSA) intention to request an extension for a currently approved information collection in support of compliance with Civil Rights laws.

DATES: Comments on this notice must be received by January 7, 2002 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Jacqueline Micheli, Equal Opportunity Specialist, Rural Development, U.S. Department of Agriculture, STOP 0703, 1400 Independence Ave., SW., Washington, DC 20250–0703, Telephone (202) 692–0099 (voice) or 692–0305 (TDD).

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1901–E, Civil Rights Compliance Requirements.

OMB Number: 0575–0018.

Expiration Date: February 28, 2002.

Type of Request: Extension of an information collection.

Abstract: The information collection under OMB Number 0575–0018 enables the RHS, RBS, RUS, and FSA to effectively monitor a recipient's compliance with the civil rights laws, and to determine whether or not service and benefits are being provided to beneficiaries on an equal opportunity basis.

The RBS, RHS, RUS, and FSA, formerly the Farmers Home Administration, are required to provide Federal financial assistance through its farmer, housing, and community and business programs on an equal opportunity basis. The laws implemented in 7 CFR part 1901, subpart E (''1901–E''), require the recipients of RBS, RHS, RUS, and FSA's Federal financial assistance to collect various types of information, including information on participants in certain of these agencies' programs, by race, color, and national origin. While these agencies realize that the provisions of 1901–E are outdated as the result of statutory amendment and other processes of law, the information needed to be collected under this implementing regulation is not affected by the obsolete nature of the regulation. The RBS, RHS, RUS, and FSA use the information to monitor a recipient's compliance with the civil rights laws, and to determine whether or not service and benefits are being provided to beneficiaries on an equal opportunity basis. The agencies are in the process of revising 1901–E, and expect to publish for comment a **Federal Register** document proposing these revisions in 2002. The following laws are implemented in 7 CFR 1901–E:

a. *Title VI of the Civil Rights Act of 1964 (''Title VI'')*. The implementing regulations for this Act issued by the Department of Justice and the Department of Agriculture requires recipients of RBS', RHS' RUS' and FSA's program assistance to collect information on the race/national origin of the beneficiaries of their specific programs. This information is used by the RBS, RHS, RUS, and FSA for compliance review and monitoring purposes for Title VI.

b. *Title VIII of the Civil Rights Act of 1968 (as amended) (''Title VIII*). Section 808a of Title VIII (42 U.S.C. 3608a (1988)), in pertinent part, requires the Secretary of Agriculture to collect racial and ethnic data on beneficiaries and recipients of USDA housing programs. Furthermore, the implementing regulations issued by the Department of Housing and Urban Development (''HUD'') and adopted by the RBS, RHS, RUS, and FSA, requires recipients and other participants in RHS's housing programs affirmatively to further fair housing by providing housing and the opportunity to acquire housing in a non-discriminatory fashion. One way to demonstrate compliance with Title VIII is to prepare affirmative fair housing marketing plans, and to collect and maintain data to reflect compliance with the requirements of that plan. Furthermore, under the Memorandum of Understanding between HUD and USDA, many complaints of fair housing violation by USDA recipients will be processed by HUD. The collection and maintenance of these data will assist in this enforcement effort.

c. *Executive Order 11246*. The implementing regulations issued by the Department of Labor (DOL) and adopted by the RBS, RHS, RUS, and FSA, require recipients of Federally assisted construction contracts of $10,000 or more to maintain goals for hiring minorities and females, and to submit employment utilization reports to the DOL's Office of Federal Contract Compliance Programs.

The information collected and maintained by the recipients of certain programs from RBS, RHS, RUS, and FSA is used internally by these agencies for monitoring compliance with the civil rights laws and regulations. This information is made available to USDA officials, officials of other Federal agencies, and to Congress for reporting purposes. Without the required information, RBS, RHS, RUS, FSA and its recipients will lack the necessary documentation to demonstrate that their programs are being administered in a nondiscriminatory manner and in full compliance with the civil rights laws. In addition, the RBS, RHS, RUS, and FSA, and their recipients would be vulnerable in lawsuits alleging discrimination in the affected programs of these agencies and would be without appropriate data and documentation to defend themselves by demonstrating that services and benefits are being provided to beneficiaries on an equal opportunity basis.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 5.57 hours per response.

Respondents: Recipients of RBS, RHS, RUS, and FSA's Federal financial assistance, loan, and loan guarantee programs.

Estimated Number of Respondents: 19,565.

Estimated Number of Responses per Respondent: 4.50.

Estimated Number of Responses: 88,165.

Estimated Total Annual Burden on Respondents: 491,517.

Copies of this information collection can be obtained from Richard Gartman, Regulations and Paperwork Management Branch, Support Services Division, at (202) 692–0038.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Development, including whether the information will have practical utility; (b) the accuracy of the Agencies' 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. Comments may be sent to Richard Gartman, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, Ag Box 0742, Washington, DC 20250. 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.

Dated: September 10, 2001.

Michael E. Neruda,

Acting Deputy Under Secretary, Rural Development.

Dated: September 21, 2001.

J.B. Penn,

Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 01–27877 Filed 11–7–01; 8:45 am]

BILLING CODE 3410–XT–U

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet on November 26, 2001, in Yreka, California. The purpose of the meeting is organizational and will serve as an orientation to RAC committee members regarding the Secure Rural School and Community Self-Determination Act of 2000.

DATES: The meeting will be held November 26, 2001 from 1 p.m. to 8 p.m.

ADDRESSES: The meeting will be held at the Miners Inn and Convention Center, 122 E. Miner Street, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Amy Gowan, Meeting Coordinator, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California, 96097, (530) 841–4485; EMAIL *agowan@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Federal Advisory Committee Act (FACA) overview; (2) Roles and Responsibilities for Advisory Committees; (3) Rules and Operational Guides and Bylaws; (4) Project Process; (5) Election of RAC Chairperson; (6) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: October 30, 2001.

Ray Haupt,

Acting Deputy Forest Supervisor.

[FR Doc. 01–27891 Filed 11–6–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Wednesday, November 14, 2001, at the Gifford Pinchot National Forest Headquarters, located at 10600 NE 51st Circle, Vancouver, Washington. The meeting will begin at 10 a.m. and continue until 4 p.m. The purpose of the meeting is to: (1) Discuss the future of Mount St. Helens National Volcanic Monument, (2) Discuss means of communicating with diverse audiences, and (3) Provides for a Public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (3) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Linda Turner, Public Affairs Specialist, at (360) 891–5195, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Claire LaVendel,

Forest Supervisor.

[FR Doc. 01–27904 Filed 11–6–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: November 13, 2001; 11:00 a.m.–5:00 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW, Washington, D.C. 20237.

The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: November 5, 2001.

Carol Booker,

Legal Counsel.

[FR Doc. 01–28083 Filed 11–5–01; 2:26 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Membership of the Departmental Performance Review Board

AGENCY: Department of Commerce.

ACTION: Notice of membership of Departmental Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4313(c)(4), Department of Commerce (DOC) announces the appointment of persons to serve as members of the Departmental Performance Review Board (DPRB). The DPRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and serves as the higher level review for executives who report

to an appointing authority. Such reviews are conducted only at the executive's request. The appointment of these members to the DPRB will be for periods of 24 months.

EFFECTIVE DATE: The effective date of service appointees to the Departmental Performance Review Board is upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Joan Jorgenson, Director, Office of Executive Resources, Office of Human Resources Management, 14th and Constitution Avenue, NW., Washington, DC 20230, (202) 482–4233.

SUPPLEMENTARY INFORMATION: The names, position titles, and type of appointment of the members of the DPRB are set forth below by organization:

2001–2003 DPRB MEMBERSHIP

Organization/Member/Type of Appointment

Office of the Secretary

Nuala O'Connor, Deputy Director, Office of Policy and Strategic Planning
Tracy B. McKibbon, Director, Executive Secretariat

Office of the Assistant Secretary for Administration

Barbara A. Retzlaff, Director, Office of Budget

General Counsel

Barbara S. Fredericks, Assistant General Counsel for Administration
Margaret A. Wilson, Deputy General Counsel

Economics and Statistics Administration

James L. Price, Deputy Under Secretary for Economic Affairs
James K. White, Associate Under Secretary for Management
William G. Barron Jr., Deputy Director, Bureau of the Census
Marvin D. Raines, Associate Director for Field Operations, Bureau of the Census
J. Steven Landefeld, Director, Bureau of Economic Analysis

National Telecommunications and Information Administration

Bernadette McGuire-Rivera, Associate Administrator for Telecommunications and Information Applications

International Trade Administration

Jonathan C. Menes, Director, Office of Trade and Economic Analysis, Trade Development
Susan H. Kuhbach, Senior Director, Import Administration
Stephen P. Jacobs, Deputy Assistant Secretary for Agreements Compliance, Market Access and Compliance
Linda Moye-Cheatham, Chief Financial Officer and Director of Administration
Nealton J. Burnham, Deputy Assistant Secretary for Export Promotion Services

Economic Development Administration

David M. Bearden, Deputy Assistant Secretary

National Oceanic and Atmospheric Administration

Rear Admiral Evelyn J. Fields, Director, Office of Marine and Aviation Operations; Director, NOAA Commissioned Corps
John E. Jones Jr., Deputy Assistant Administrator for Weather Services, National Weather Service
Stewart S. Remer, Deputy Chief Administrative Officer, Office of Finance and Administration
Mary M. Glackin, Deputy Assistant Administrator, National Environmental Satellite, Data and Information Service
Jamison S. Hawkins, Deputy Assistant Administrator for Ocean Services and Coastal Zone Management

Bureau of Export Administration

Eileen M. Albanese, Director, Office of Exporter Services
Steven Goldman, Director, Office of Chemical and Biological Controls and Treaty Compliance
Dexter M. Price, Director, Office of Antiboycott Compliance

Dated: October 31, 2001.

Joan Jorgenson,

Executive Secretary, Departmental Performance Review Board.

[FR Doc. 01–27885 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Performance Review Board; Membership

The following individuals are eligible to serve on the Performance Review Board in accordance with the Senior Executive Service Performance Appraisal System of the Office of the Secretary.

Kathleen J. Taylor
Travis G. Thomas
John J. Phelan, III
Linda Moye-Cheatham
Michael E. Meece
Thomas N. Pyke, Jr.
James L. Taylor
Miriam Cohen

Joan Jorgenson,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 01–27886 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–55–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 43–2001]

Foreign-Trade Zone 146—Lawrence County, IL; Application for Subzone Expansion-Subzone 146A, North American Lighting, Inc., Facilities, Flora and Salem, Illinois (Automotive Lighting Products)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Bi-State Authority, grantee of FTZ 146, requesting authority on behalf of North American Lighting, Inc. (NAL), operator of FTZ 146A, at the NAL automotive lighting products manufacturing facilities in Flora and Salem, Illinois, to expand FTZ Subzone 146A to include a new site in Paris, Illinois, and requesting authority to expand the scope of FTZ authority to include new manufacturing capacity under FTZ procedures. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 31, 2001.

Subzone 146A was approved by the Board in 1988 with authority granted for the manufacture of automotive lighting components and other related auto parts at NAL's manufacturing facilities (355,000 sq.ft./14 acres) in Flora, Illinois (*Site 1*) (Board Order 371, 53 FR 5436, 2–24–88). The subzone was subsequently reorganized and expanded to include NAL's second manufacturing facility (380,000 sq.ft./22 acres) in the Salem Industrial Park, Salem, Illinois (*Site 2*) (Board Order 718, 60 FR 2375, 1–9–95). In January 2001, the Board approved an expansion of the scope of FTZ manufacturing authority up to 56 million units annually, with a concurrent expansion of the boundaries of Subzone 146A (Board Order 1142, 66 FR 8195, 1–30–01).

The applicant is now requesting authority to expand the subzone to include a new site, currently under construction, located at 2277 South Main in Paris (Edgar County), Illinois. Proposed *Site 3* would include a 41-acre parcel within the Paris Industrial Park containing a 179,000 square foot

automotive lighting product manufacturing facility (250 employees). Under the current expansion plan, the NAL facilities' production capacity will be almost doubled (to 100 million units per year) with the addition of up to 1.2 million square feet of production area within proposed *Site 3*. Activity at the new facility would be similar to existing production at the Salem and Flora sites, involving design, injection molding, plating and assembly of motor vehicle headlamps, rear combination lamps, high mount stop lamps, turn signals, dome and trunk lamps, fog lamps, side marker and license plate lamps using domestic and foreign-origin components. Foreign-sourced components and materials (about 19 percent of total purchases) include (with scope increase): various polymers and resins in primary form (HTSUS Ch. 39), articles of rubber and plastic, parts of lighting equipment, wiring harnesses, bulbs, gaskets/seals, fasteners, optical elements of glass, certain electrical apparatus (including motors, switches), springs, articles of copper, printed circuits, lamps and lenses, optical fiber and cable/bundles (duty rates: free −12.5%, 1.1¢/kg+2.9%).

FTZ procedures exempt NAL from Customs duty payments on the foreign components used in export production (16% of shipments). On its domestic sales (including NAFTA markets), the company is able to choose the duty rates that apply to finished automotive lighting equipment and parts (duty free, 2.5%) for the foreign components possessing higher duty rates. The auto duty rate (2.5%) applies if the finished lighting products are shipped via zone-to-zone transfer to U.S. motor vehicle assembly plants with subzone status. The request indicates that the savings from FTZ procedures will continue to help improve the facilities' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building–Suite 4100W, 1099 14th Street, NW., Washington, DC 20005; or,

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB–4100W, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is January 7, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 22, 2002).

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address No.1 listed above and at the U.S. Department of Commerce Export Assistance Center, Suite 2440, 55 West Monroe Street, Chicago, IL 60603.

Dated: October 31, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–27978 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 44–2001]

Foreign-Trade Zone 49—Newark/Elizabeth, NJ, Application for Subzone, Movado Group, Inc., (Watches; Certain Consumer Goods), Moonachie, NJ

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York and New Jersey, grantee of FTZ 49, requesting special-purpose subzone status for the watch and consumer goods warehousing/distribution/repair facility of the Movado Group, Inc., (Movado), in Moonachie, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 31, 2001.

The Movado Group, Inc. (100,000 sq. ft. on 4.5 acres) is located at 105 State Street in Moonachie, New Jersey. The facilities (285 employees) are used primarily for storage, inspection, repair, packaging and distribution of wristwatches and clocks and watch parts. The company also distributes a variety of other consumer goods, including the following: writing instruments, sunglasses, steel and silver gifting items, silverware, jewelry, glassware, apparel and clothing accessories, tableware and other household articles, shaving preparations and other toiletries, and perfumes and toilet waters. Almost all of the products are sourced from abroad and some 5 percent are currently exported.

Zone procedures would exempt Movado from Customs duty payments on foreign products that are reexported. On domestic sales, the company would be able to defer payments until merchandise is shipped from the facility. The application indicates that the savings from zone procedures will help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions Via Express/Package Delivery Services:* Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St., NW., Washington, DC 20005; or

2. *Submissions Via the U.S. Postal Service:* Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is January 7, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 22, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, One Gateway Center, 9th Floor, Newark, NJ 07102.

Dated: October 31, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–27979 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–423–808]

Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On February 26, 2001, the Department of Commerce (the Department) published the preliminary affirmative results of the antidumping duty administrative review on stainless steel plate in coils (SSPC) from Belgium (66 FR 11559) (*Preliminary Results*). The review covers exports of this merchandise to the United States for the period November 4, 1998 through April 30, 2000, by ALZ, N.V. (ALZ), a manufacturer and exporter of subject merchandise.

Based on our analysis of the comments received, we have made changes in the margin calculations. The final dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Abdelali Elouaradia, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230 at (202) 482–0197 or (202) 482–1374, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Background

In its *Preliminary Results*, the Department assigned to ALZ, as adverse facts available (AFA), the highest calculated rate from the petition, 16 percent, given that the company withdrew from the review and requested that its questionnaire responses be removed from the record. The Department also invited parties to submit additional information if they considered such information more appropriate or relevant for use as AFA. On February 23, 2001, Allegheny Ludlum, AK Steel Corporation, J&L Specialty Steel Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL–CIO/CLC (petitioners) submitted comments proposing that the Department calculate ALZ's dumping margin using, as AFA, ALZ's public summary of its proprietary questionnaire responses. On March 5, 2001, ALZ submitted a response to petitioners' proposed margin calculations. On March 28, 2001, petitioners filed their case briefs. On April 2, 2001, ALZ filed a rebuttal brief. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Reviews

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of these orders are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition, certain cold-rolled stainless steel plate in coils is also excluded from the scope of these orders. The excluded cold-rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold-reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process.

The merchandise subject to these orders is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of the orders is dispositive.

Period of Review

This is the first administrative review. The period of review (POR) is November 4, 1998 through April 30, 2000.

Facts Available

Consistent with our *Preliminary Results*, we have applied AFA with respect to ALZ for purposes of the final results of this review. For a detailed discussion of our application, selection, and corroboration of facts available, *see Preliminary Results*, 66 FR at 11561. However, since the *Preliminary Results*, we have re-examined the information on which the preliminary margin, calculated on the basis of the price-to-constructed value (CV) comparison, was based. We found that the CV has increased in the POR. To the extent that POR information was reasonably available to us, we recalculated this margin. Specifically, we recalculated the factory overhead, selling and general expenses and profit ratios, using ALZ's 1998, 1999 and 2000 publicly-available financial statements. We applied the weighted-average of these ratios to the original base cost to get the total CV. Finally, we compared the CV to the net U.S. price in the original petition, which resulted in a margin of 24.43 percent. *See Memorandum to Barbara E. Tillman through Sally Gannon from Abdelali Elouaradia: Total Adverse Facts Available Calculation Memorandum*, October 24, 2001 (*Calculation Memorandum*).

Corroboration

For the *Preliminary Results*, in accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price and normal value calculations on which the margins in the petition were based. As stated above, we have recalculated the margin using information from ALZ's most recent financial statements. *See Calculation Memorandum.* Because this is ALZ's own information from its audited financial statements, which are publicly available, it needs no further corroboration. Accordingly, we find the margin used in these final results to be corroborated to the extent practicable. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 84 (January 4, 1999).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary,

AD/CVD Enforcement Group III, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 24, 2001, which is hereby adopted by this notice.

A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, located in room B–099 of the main Department of Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

As a result of our review covering the period of November 4, 1998 through April 30, 2000, we determine that the dumping margin for ALZ, based on total AFA, is as follows:

Manufacturer/exporter	Margin (percent)
ALZ, N.V	24.43

Liquidation

The Department shall determine, and U.S. Customs Service (Customs) shall assess, antidumping duties on all appropriate entries. These final results of review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review. For ALZ, we based the assessment rate on the facts available margin percentage. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of ALZ's entries under the relevant order during the POR.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of SSPC from Belgium entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 9.86 percent. This rate is the ''All Others'' rate from the LTFV investigation (*see Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Belgium*, 64 FR 15476 (March 31, 1999)). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: October 24, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix

List of Issues

Selection of the Appropriate Adverse Facts Available Margin.

[FR Doc. 01–27976 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–489–807]

Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 4, 2001, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey (66 FR 22525). This review covers four manufacturers/exporters of the subject merchandise to the United States. The period of review is April 1, 1999, through March 31, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0656 or (202) 482–3874, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (2000).

Background

This review covers four manufacturers/exporters (*i.e.,* Colakoglu Metalurji A.S. (Colakoglu), Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Ticaret A.S., and

Diler Dis Ticaret A.S. (collectively ''Diler''), Ekinciler Holding A.S. and Ekinciler Demir Celik A.S. (collectively ''Ekinciler''), and ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. (ICDAS)).

On May 4, 2001, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey. *See Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review,* 66 FR 22525 (May 4, 2001) (*Preliminary Results*).

We invited parties to comment on our preliminary results of review. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Review

The period of review (POR) is April 1, 1999, through March 31, 2000.

Cost of Production

As discussed in the *Preliminary Results,* we conducted an investigation to determine whether the respondents participating in the review made home market sales of the foreign like product during the POR at prices below their costs of production (COPs) within the meaning of section 773(b)(1) of the Act. We calculated the COP for these final results following the same methodology as in the *Preliminary Results,* except as discussed in the accompanying ''Issues and Decision Memorandum'' (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 31, 2001.

As noted above, we determined that the Turkish economy experienced significant inflation during the POR. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that each respondent submit the product-specific cost of manufacturing (COM) incurred during each month of the reporting period. We calculated a period-average COM for each product after indexing the reported monthly costs during the reporting period to an equivalent currency level using the Turkish Wholesale Price Index from the International Financial Statistics published by the International Monetary Fund. We then restated the period-average COMs in the currency values of each respective month.

We compared the weighted-average COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges and selling expenses.

We found 20 percent or more of each respondent's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below cost sales were made in ''substantial quantities'' within an extended period of time and, for Colakoglu only, at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(2)(B), (C), and (D) of the Act. Regarding Diler, Ekinciler, and ICDAS, as discussed in the preliminary results, we granted these respondents six-month limited reporting periods, and we advised them that if they elected to limit their reporting of home market data to a six-month period, in the sales-below-cost investigation they would forgo the application of the ''recovery of cost'' test pursuant to section 773(b)(2)(D) of the Act. Diler, Ekinciler, and ICDAS agreed to accept this limitation. Consequently, without the application of the ''recovery of cost'' test, we determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Therefore, for purposes of these final results, we disregarded the below-cost sales for all respondents and used the remaining sales as the basis for determining normal value, pursuant to section 773(b)(1) of the Act. While we disregarded some below-cost sales, sufficient sales remained that passed the cost test in the current review. Therefore, it was unnecessary to calculate constructed value in this case.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review are addressed in the Decision Memo, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. These changes are discussed in the relevant sections of the Decision Memo.

Final Results of Review

We determine that the following weighted-average margin percentages exist for the period April 1, 1999, through March 31, 2000:

Manufacturer/exporter	Percent margin
Colakoglu Metalurji A.S.	9.51
Ekinciler Holding A.S./Ekinciler Demir Celik A.S.	6.83
Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Ticaret A.S./Diler Dis Ticaret A.S.	0.00
ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S.	0.00

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for Diler, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Regarding Colakoglu, Ekinciler, and ICDAS, for assessment purposes, we do not have the information to calculate entered value because these companies are not the importers of record for the subject merchandise. Accordingly, we have calculated importer-specific duty assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to

each importer and dividing this amount by the total quantity of those sales. The assessment rate will be assessed uniformly on all entries of that particular importer made during the POR. Pursuant to 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of rebar from Turkey entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: 1) The cash deposit rates for the reviewed companies will be the rates indicated above; 2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: October 31, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix.—Issues in Decision Memo

Comments

1. Use of Facts Available.
2. Exchange Rates used for Currency Conversions.
3. Cost Recovery Test.
4. Home Market Sales Priced in U.S. Dollars.
5. Kur Farki Adjustment.
6. Colakoglu's Home Market Credit Expenses.
7. Colakoglu's Home Market Indirect Selling Expenses.
8. Different Costs for the Same Products Produced by Colakoglu.
9. Unreported Costs for Colakoglu.
10. Colakoglu's Production Quantities.
11. Colakoglu's Depreciation Expenses.
12. Colakoglu's G&A Expenses.
13. Colakoglu's Financing Expenses.
14. Costs for Different Grades of Rebar Produced by Diler.
15. Unreported Material Costs for Diler.
16. Diler's Depreciation Expenses.
17. Diler's G&A Expenses.
18. Diler's Financing Expenses.
19. Selling Expenses for Constructed Export Price.
20. Ekinciler's Home Market Freight Expenses.
21. Ekinciler's U.S. Freight Expenses.
22. Ekinciler's Home Market Credit Expenses.
23. Ekinciler's Scrap Costs.
24. Ekinciler's Depreciation Expenses.
25. Ekinciler's G&A Expenses.
26. Use of Consolidated Financing Expenses for Ekinciler.
27. Calculation of Ekinciler's Financing Expenses.
28. New Factual Information.
29. ICDAS's Scrap and Labor Costs.
30. ICDAS's Secondary Materials.
31. ICDAS's Packing Costs.
32. Treatment of ICDAS's Foreign Exchange Gains and Losses and Interest.

[FR Doc. 01–27975 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–535–001]

Cotton Shop Towels From Pakistan: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit of preliminary results of review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the administrative review of the countervailing duty order on cotton shop towels from Pakistan. This review covers the period January 1, 2000, to December 31, 2000.

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Geoffrey Craig, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3338 or (202) 482–4161, respectively.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930 (the Act), as amended, requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and for the final determination to extend the 120-day time limit to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary results.

Background

On April 30, 2001, the Department published a notice of initiation of administrative review of the countervailing duty on cotton shop towels from Pakistan, covering the period January 1, 2000 through December 31, 2000. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Review*, 66 FR 21310 (April 30, 2001). The preliminary results are currently due no later than December 3, 2001.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit of 245 days. Therefore, the Department is extending the 245-day time limit for completion of the preliminary results until no later than

March 31, 2002. *See* Decision Memorandum from Melissa G. Skinner, Office Director for AD/CVD Office VI, to Bernard T. Carreau, Deputy Assistant Secretary, dated concurrently with this notice, which is on public file in the Central Records Unit, Room B–099 of the Department of Commerce. We intend to issue the final results no later than 120 days after the publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)).

Dated: October 31, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–27977 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–507–501]

Certain In-Shell Pistachios From Iran: Notice of Initiation of New Shipper Countervailing Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received a request for a new shipper review of the countervailing duty order on certain in-shell (*i.e.*, raw) pistachios from Iran. In accordance with our regulations, we are initiating this new shipper review.

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds or Darla Brown at (202) 482–2786; AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, US Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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 refer to the regulations codified at 19 CFR part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

The Department has received a request from Tehran Negah Nima Trading Company, Inc. (''Nima'') to conduct a new shipper review of the countervailing duty order on certain in-shell pistachios, issued March 11, 1986 (51 FR 8344). This request was made pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(b).

Initiation of Review

Pursuant to 19 CFR 351.214(b), in its request of September 18, 2001, Nima certified that it did not export the subject merchandise to the United States during the period of investigation (''POI'') and that it is not now and never has been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI. Nima submitted documentation establishing the date on which its merchandise was first entered for consumption in the United States, the volume of that first shipment and the date of its first sale to an unaffiliated customer in the United States.

In accordance with section 751(a)(2)(B) of the Act and section 351.214(d) of the Department's regulations, we are initiating a new shipper review of the countervailing duty order on certain in-shell pistachios from Iran. In accordance with 19 CFR 351.214(h)(i), we intend to issue the preliminary results of this review not later than 180 days from the date of publication of this notice. The Department's regulations state, in 19 CFR 351.214(g)(2), that the period of review for a CVD new shipper review will be the same period as that specified in 19 CFR 351.213(e)(2), which states that the Department normally will cover entries of subject merchandise during the most recently completed calendar year. However, the Department noted in the Preamble to its Final Regulations that the regulations continue to ''provide the Department with sufficient flexibility to resolve any problems that may arise by modifying the standard review period.'' *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27320 (May 19, 1997). The Department's regulations permit a party to file a request for a new shipper review during the 6 month period preceding the anniversary month and the 6 month period preceding the semiannual anniversary month. If a calendar year standard is utilized, as noted in the Department's regulations, entries may enter during the current year, and be lost from the Department's analysis as a result. Because the Department believes that such a situation would arise in this instance, the POR will begin with the last fiscal quarter of the year 2000 and end with the third fiscal quarter of 2001.

Countervailing duty processing	Period to be reviewed
Iran: Certain In-shell Pistachios, C–507–501:Tehran Negah Nima Trading Company	10/01/00–09/30/01

Concurrent with publication of this notice, and in accordance with 19 CFR 351.214(e), we will instruct the Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the company listed above, until the completion of the review.

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305.

This initiation notice is in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: October 31, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 01–27974 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Mississippi Coastal Management Program, and the Ashepoo-Combahee-Edisto (ACE) Basin National Estuarine Research Reserve, South Carolina.

The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 923, subpart L. The National Estuarine Research Reserve evaluation will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended and regulations at 15 CFR part 921, subpart E and part 923, subpart L.

The CZMA requires continuing review of the performance of states with respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document or Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. Public meetings will be held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of the public meetings during the site visits.

The Mississippi Coastal Management Program evaluation site visit will be held January 7–11, 2002. One public meeting will be held during the week. The public meeting will be on Tuesday, January 8, 2002, at 5:30 p.m., in the Bolton State Office Building, 1141 Bayview Avenue, Biloxi, Mississippi.

The Ashepoo-Combahee-Edisto (ACE) Basin National Estuarine Research Reserve site visit will be from January 14–18, 2002. One public meeting will be held during the week. The public meeting will be held on Wednesday, January 16, 2002, at 7:00 p.m., at the Edisto Beach State Park Office, Edisto, South Carolina. This ACE Basin Reserve site visit replaces a site visit originally scheduled for December 10–14, 2001. Likewise, the public meeting scheduled above replaces a public meeting originally set for Wednesday, December 12, 2001. Notice of the earlier site visit and public meeting was published in the **Federal Register**, September 20, 2001 (see 66 FR 48425).

Copies of states' most recent performance reports, as well as OCRM's notifications and supplemental request letters to the states, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th floor, Silver Spring, Maryland 20910. When the evaluations are completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Douglas Brown, Acting Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3155, Extension 215.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 31, 2001.

Jamison S. Hawkins,

Deputy Assistance Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–27880 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Review Panel

AGENCY: Notice correction.

SUMMARY: The National Oceanic and Atmospheric Administration published a notice in the **Federal Register** on Friday, October 12, 2001, announcing a public meeting scheduled for Thursday, November 8, 2001 from 8:30 a.m.–5:40 p.m. and Friday, November 9, 2001 from 8:30 a.m.–12:30 p.m. The meetings are to be held at the National Oceanic and Atmospheric Administration, Silver Spring, Metro Center III, 1315 East-West Highway, Room 4527, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald C. Baird, Director, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 11716, Silver Spring, Maryland 20910, (301) 713–2448.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** issue of October 12, 2001, 66 FR 52113, on page 52114, in the first column, insert the following information in parentheses immediately following, ''The agenda for the meeting is as follows'':

The Sea Grant Review Panel may, at its discretion, move the Thursday, November 8 session in its entirety from 8:30 a.m.–5:40 p.m. to 12 noon–10 p.m. The order of events will remain the same. The Sea Grant Review Panel will reconvene on Friday, November 9, 2001 at 8:30 a.m. and adjourn at 12:30 p.m. according to the previously Federal Register listing.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 01–27879 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–KA–M

COMMISSION ON THE FUTURE OF THE UNITED STATES AEROSPACE INDUSTRY

Public Meeting

AGENCY: Commission on the Future of the United States Aerospace Industry.

ACTION: Notice.

SUMMARY: The purpose of the meeting is to hear testimony from the Congressional sponsors of the Commission and Administration and Federal Agency officials regarding their priorities for the Commission and views on the future of aerospace. The Commissioners will then deliberate based on the testimony and extensive information previously received from the public and industry. They will decide on the scope and priorities of the Commission's year-long effort and identify initial studies, products and contents.

Section 1092 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398) established the Commission on the Future of the United States Aerospace Industry to study the issues associated with the future of the United States national security; and assess the future importance of the domestic aerospace industry for the economic and national security of the United States. The Commission is governed by the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation of advisory committees and implementing regulations (41 CFR subpart 101–6.10).

All interested parties are welcome to submit written comments at any time.

TIME AND DATE: Tuesday, November 27, 2001; 8:30 a.m. to 5:30 p.m.

ADDRESS: Department of Commerce Auditorium, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Cindy Waters, 1235 Jefferson Davis Highway, Suite 940; Arlington, Virginia 22202; phone 703–602–1515; e-mail *watersc@osd.pentagon.mil.*

Dated: November 1, 2001.

Charles H. Huettner,

Executive Director, Commission on the Future of the United States Aerospace Industry.

[FR Doc. 01–27955 Filed 11–6–01; 8:45 am]

BILLING CODE 6820–WP–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

November 2, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 647/648 is being increased for special shift from Categories 347/348, reducing the limit for Categories 347/348 to account for the special shift being applied to Categories 647/648.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69742, published on November 20, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on November 7, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
347/348	3,248,538 dozen.
647/648	1,943,329 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–27961 Filed 11–06–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

November 2, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota reopenings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, special shift, carryover, carryforward, and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66728, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on November 7, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
301–O [2]	1,355,111 kilograms.

Category	Adjusted twelve-month limit [1]
363	27,551,417 numbers.
369–D [3]	317,578 kilograms.
369–S [4]	386,572 kilograms.
619	9,470,653 square meters.
620	9,705,508 square meters.
Group II	
237, 331–348, 350–352, 359–H [5], 359pt. [6], 431, 433–438, 440, 442–448, 459pt. [7], 631, 633–652, 659–H [8], 659pt. [9], 831, 833–838, 840–858 and 859pt. [10].	384,230,736 square meters equivalent.
Sublevels in Group II	
338/339	2,786,011 dozen.
340	378,107 dozen.
341/641	925,279 dozen.
342/642	805,538 dozen.
345	407,239 dozen.
347/348/847	1,125,443 dozen.
351/651	326,568 dozen.
434	13,049 dozen.
435	62,684 dozen.
442	24,028 dozen.
638/639	2,558,950 dozen.
647/648	1,598,203 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 301–O: only HTS numbers 5205.21.0020, 5205.21.0090, 5205.22.0020, 5205.22.0090, 5205.23.0020, 5205.23.0090, 5205.24.0020, 5205.24.0090, 5205.26.0020, 5205.26.0090, 5205.27.0020, 5205.27.0090, 5205.28.0020, 5205.28.0090, 5205.41.0020, 5205.41.0090, 5205.42.0020, 5205.42.0090, 5205.43.0020, 5205.43.0090, 5205.44.0020, 5205.44.0090, 5205.46.0020, 5205.46.0090, 5205.47.0020, 5205.47.0090, 5205.48.0020 and 5205.48.0090.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369–S: only HTS number 6307.10.2005.

[5] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[6] Category 359pt.: all HTS numbers except 6505.90.1540, 6505.20.2060 (Category 359–H); and 6406.99.1550.

[7] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[8] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[9] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540.

[10] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–27962 Filed 11–6–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02–09]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–09 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: November 1, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–P

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 OCT 2001
In reply refer to:
I-01/012096

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 02-09 and under separate cover the classified offset certificate thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Republic of Korea for defense articles and services estimated to cost $115 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale are described in the enclosed confidential attachment.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachment
As stated

Separate Cover:
Offset certificate

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-09

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Republic of Korea**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 90 million
Other	$ 25 million
TOTAL	$ 115 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Forty-five AGM-84-H Standoff Land Attack Missiles-Expanded Response (SLAM-ER) missile systems, one ATM-84-H Exercise Missile, training missiles, containers, support equipment, spares and repair parts, missile support and test equipment, provisioning, program management, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related elements of program support.**

(iv) **Military Department: Navy (AIU)**

(v) **Prior Related Cases, if any: none**

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none**

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached**

(viii) **Date Report Delivered to Congress: 26 OCT 2001**

* **as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Republic of Korea - Standoff Land Attack Missile-Expanded Response Missile Systems

The Republic of Korea Government (ROKG) has requested a possible sale of 45 AGM-84-H Standoff Land Attack Missiles-Expanded Response (SLAM-ER) missile systems, one ATM-84-H Exercise Missile, training missiles, containers, support equipment, spares and repair parts, missile support and test equipment, provisioning, program management, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related elements of program support. The estimated cost is $115 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Northeast Asia.

The Republic of Korea Air Force intends to use the SLAM-ER missiles on the F-15K aircraft. The Korean Armed Forces have significant previous and current experience with modern weapon systems and will have no difficulty absorbing these missiles.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Boeing Company of St. Louis, Missouri. One or more proposed offset agreements may be related to this proposed sale.

No U.S. Government or contractor representatives are required to be stationed for any length of time in-country. However, Contractor Engineering Technical Services (CETS) will be required on an interim basis for installation.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-09

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The Standoff Land Attack Missile - Expanded Response (SLAM-ER) is an evolutionary upgrade to the combat-proven SLAM, is a day/night, adverse weather, over-the-horizon, precision strike missile. SLAM-ER provides an effective, long range, precision strike option for both pre-planned and Target of Opportunity attack missions against land and ship targets. Most significant among these enhancements are: a highly accurate, Globe Positioning System-aided guidance system; improved missile aerodynamic performance characteristics that allow both greater range and more effective terminal attack profiles; a redesigned ordnance section for increased penetrating power and lethality; and a more user-friendly for Man-in-the-Loop control and mission planning. SLAM-ER will be the first weapon to feature Automatic Target Acquisition, a revolutionary technological breakthrough which will automate and improve target acquisition in cluttered scenes, and overcome most countermeasures and environmentally degraded conditions. SLAM-ER is a follow-on to the SLAM missile that is no longer in production. It is a variant of the HARPOON missile that utilizes the Maverick Imaging Infrared (IIR) seeker, GPS for improved navigation, planar wings, and a new warhead. The system uses the AWW-13 data link system to support man in the loop operation. SLAM-ER is effective against a wide range of land-based targets and has a secondary role of anti-ship. These missiles are classified as Confidential. The support items are classified unclassified.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

BILLING CODE 5001–08–C
[FR Doc. 01–27942 Filed 11–6–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02–11]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–11 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: November 1, 2001.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–P

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 OCT 2001
In reply refer to:
I-01/012097

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 02-11, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost $51 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-11

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Taipei Economic and Cultural Representative Office in the United States

(ii) Total Estimated Value:

Major Defense Equipment*	$40 million
Other	$11 million
TOTAL	$51 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Forty JAVELIN anti-tank missile systems (consisting of 40 JAVELIN command launch units, 360 JAVELIN missile rounds, and four lot acceptance missiles), simulators, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support.

(iv) Military Department: Army (YWG)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: 26 OCT 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States - JAVELIN Anti-tank Missile Systems

The Taipei Economic and Cultural Representative Office in the United States has requested a possible sale of 40 JAVELIN anti-tank missile systems (consisting of 40 JAVELIN command launch units, 360 JAVELIN missile rounds, and four lot acceptance missiles), simulators, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support. The estimated cost is $51 million.

This sale is consistent with United States law and policy as expressed in Public Law 96-8.

The proposed sale of these JAVELIN anti-tank missile systems will enhance the recipient's medium anti-tank capability for the infantry, scouts, and combat engineers. This system will provide the recipient a strong anti-landing capability and will increase interoperability with U.S. forces. The recipient will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be JAVELIN Joint Venture (Raytheon and Lockheed Martin) of Orlando, Florida. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of two U.S. Government and one contractor representatives to the recipient for one week to assist in the delivery and deployment of the missiles.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-11

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The JAVELIN anti-tank missile system provides a man-portable, medium anti-tank capability to infantry, scouts, and combat engineers. JAVELIN is comprised of two major tactical components; a reusable Command Launch Unit (CLU) and a missile sealed in a disposable launch tube assembly. The CLU incorporates an integrated day/night sight and provides target engagement capability in adverse weather and countermeasure environments. The CLU may also be used in the stand-alone mode for battlefield surveillance and target detection. JAVELIN's key technical feature is the use of fire-and-forget technology which allows the gunner to fire and immediately take cover. Additional special features are the top attack and/or direct fire modes (for targets under cover), integrated day/night sight, advanced tandem warhead, imaging infrared seeker, target lock-on before launch, and soft launch from enclosures or covered fighting positions. Reverse engineering of the software would require a substantial effort. The JAVELIN weapon system is Unclassified. Specific data related to operation, performance, and system vulnerabilities are classified up to the Secret level.

2. A determination has been made that the recipient can provide substantially the same degree of protection for the technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification portion of the notification. Further, the sale strengthens collective security and contributes to the standardization and interoperability in the case of coalition warfare. The benefits to be derived from the sale outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

BILLING CODE 5001–08–C
[FR Doc. 01–27943 Filed 11–6–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: November 12 & 13, 2001.

ADDRESSES: RAND, 1200 South Hayes Street, Arlington, VA 22202–5050.

Proposed Schedule and Agenda: Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 12 p.m. until 5 p.m. on November 12, 2001 and from 8:30 a.m. until 3 p.m. on November 13, 2001. Time will be allocated for public comments by individuals or organizations.

FOR FURTHER INFORMATION: RAND provides information about this Panel on its web site at *http://www.rand.org/organization/nsrd/terrpanel;* it can also be reached at (703) 413–1100 extension 5282. Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Priscilla Schlegel, RAND, 1200 South Hayes Street, Arlington, VA 22202–5050. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: October 31, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–27883 Filed 11–6–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Chemical Warfare Defense will meet in closed session on November 27, 2001, at SAIC, Inc., 4001 N. Fairfax Drive, Arlington, VA. The

Task Force will assess the possibility of controlling the risk and consequences of a chemical warfare (CW) attack to acceptable national security levels within the next five years.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will assess current national security and military objectives with respect to CW attacks; CW threats that significantly challenge these objectives today and in the future; the basis elements (R&D, materiel, acquisition, personnel, training, leadership) required to control risk and consequences to acceptable levels, including counter-proliferation; intelligence, warning, disruption; tactical detection and protection (active and passive); consequence management; attribution and deterrence; and policy. The Task Force will also assess the testing and evaluation necessary to demonstrate and maintain the required capability and any significant impediments to accomplishing this goal.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: November 1, 2001.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–27882 Filed 11–6–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF ENERGY

Office of Science; Fusion Energy Sciences Advisory Committee Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA), Public Law 92–463, and section 102–3.65, Title 41 Code of Federal Regulations, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Fusion Energy Sciences Advisory Committee has been renewed for a two-year period beginning November 2001. The Committee will provide advice to the Department on long-range plans, priorities, and strategies for demonstrating the scientific and technological feasibility of fusion energy.

The renewal of the Fusion Energy Sciences Advisory Committee has been determined to be essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will continue to operate in accordance with the provisions of the FACA, the GSA regulation on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee can be obtained from Ms. Rachel Samuel at (202) 586–3279.

Issued in Washington, D.C. on November 1, 2001.

James N. Solit,

Advisory Committee, Management Officer.

[FR Doc. 01–27968 Filed 11–6–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Saturday, December 1, 2001 8:00 a.m.–12:15 p.m.

ADDRESSES: Public Environmental Information Center, 10995 Hamilton-Cleves Highway, Harrison, OH.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, Phoenix Environmental, 6186 Old Franconia Road, Alexandria, VA 22310, at (703) 971–0030 or (513) 648–6478, or e-mail; *djsarno@theperspectivesgroup.com.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

8:00 a.m.—Continental Breakfast8:30 a.m.—Call to Order8:30–8:45 a.m.—Introduction of New Members8:45–9:00 a.m.—Chair's Remarks and Ex Officio Announcements 9:00–10:00 a.m.—Current Remediation Issues, Efficiency Efforts10:00–10:15 a.m.—Break10:15–11:00 a.m.—Tour of Public Environmental Information Center, Q and As11:00–12:00 noon—Review Plan for Public Records Feasibility Studies 12:00–12:15 p.m.—Public Comments12:15 p.m.—Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Gary Stegner, Public Affairs Office, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to the FernaldCitizens' Advisory Board, % Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC on November 2, 2001.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–27969 Filed 11–6–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board

AGENCY: U. S. Department of Energy.

ACTION: SES Performance Review Board Standing Register.

SUMMARY: This notice provides the Performance Review Board Standing Register for the Department of Energy. This listing supersedes all previously published lists of PRB members.

EFFECTIVE DATE: These appointments are effective as of September 30, 2001.

Acharya, Sarbeswar NMN
Allison, Jeffrey M

Anderson, Charles E
Anderson, James L
Anderson, Margot H
Aoki, Steven
Arkin, Richard W
Armstrong, M Brent
Arthur III, William John
Ascanio, Xavier
Baca, Frank A
Baca, Mark C
Bailey JR, Lawrence O
Bajura, Rita A
Baker, Kenneth E
Ballard, William W
Barker JR, William L
Barrett, Lake H
Bauer, Carl O
Bauer, Linda K
Beckett, Thomas H
Beecy, David J
Bergholz JR, Warren E
Bernard, Peter A
Berube, Raymond P
Bielan, Douglas J
Bilson, Helen E
Black, Richard L
Black, Steven K
Blackwood, Edward B
Bladow, Joel K
Boardman, Karen L
Borchardt, Charles A
Borgstrom, Carol M
Borgstrom, Howard G
Bornhoft JR, Budd B
Boston, Harry L
Bowman, Gerald C
Boyd, Gerald G
Braden JR, Robert C
Bradley JR, Theron M
Bradley, Samuel M
Brechbill, Susan R
Brewer, Robert H
Breznay, George B
Brice, James F
Brocoum, Stephan J
Brodman, John R
Bronstein, Eli B
Brown III, Robert J
Brown, Frederick R
Brumley, William J
Bubar, Patrice M
Burns, Allen L
Burrows, Charles W
Butler, Jerome M
Campbell, Elizabeth E
Campbell, James Thomas
Carabetta, Ralph A
Caravelli, John M
Cardinali, Henry A
Carlson, John T
Carlson, Kathleen Ann
Cary, Steven V
Cavanagh, James J
Chacey, Kenneth A
Chaney, Kimberly A Hayes
Christensen, William J
Christopher, Robert K
Chun, Sun W
Clark, John R
Clausen, Max Jon
Coburn, Leonard L
Combs, Marshall O
Cook, Beverly Ann
Cook, John S
Corey, Ray J
Costlow, Brian D
Cowan, Gwendolyn S
Craig JR, Jack R
Crandall, David H
Crawford, David W
Cross, Claudia A
Crowe, Richard C
Cumesty, Edward G
Cureton, Linda Y
Curtis, James H
Cygelman, Andre I
D'agostino, Thomas
Dalton, Henry F
Darugh, David G
Davies, Nelia A
Davis, James T
De Lorenzo, Ralph H
Decker, James F
Dedik, Patricia
Degrasse Jr, Robert W
Dehmer, Patricia M
Dehoratiis Jr, Guido
Deihl, Michael A
Delwiche, Gregory K
Dempsey, Robert D
Dennison, William J
Der, Victor K
Desmond Jr, William J
Dever, Gertrude L
Difiglio, Carmen NMN
Dirks, Timothy M
Dixon, Robert K
Doherty, Donald P
Domagala, Martin J
Dooley III, George J
Durnan, Denis D
Dyer, J Russell
Eberwein, Catherine D
Edmondson, John J
Edwards, Christina J
Egger, Mary H
Elwood, Jerry W
Erickson, Leif
Erickson, Ralph E
Esvelt, Terence G
Faulkner, Douglas L
Fiore, James J
Fitzgerald, Cheryl P
Folker, Robert D
Fowler, Jennifer Johnson
Franklin, Charles Anson
Frazier, Marvin E
Frei, Mark W
Fryberger, Teresa
Furiga, Richard D
Fygi, Eric J
Gale, Barry G
Garcia, Marvin L
Garland, Robert W
Garson, Henry K
Gebus, George R
Geidl, John C
Gibson Jr, William C
Gilbertson, Mark A
Ginsberg, Mark B
Glass, Richard E
Glenn, Daniel E
Glotfelty, James W
Golan, Paul M
Goldenberg, Neal NMN
Goldenberg, Ralph D
Goldsmith, Robert NMN
Gollomp, Lawrence A
Goodrum, William S
Gottlieb, Paul A
Greenwood, Johnnie D
Gross, Thomas J
Guidice, Carl W
Gunn Jr, Marvin E
Gurule, David A
Haberman, Norton NMN
Hacskaylo, Michael S
Hafner, Steven C
Hamer Jr, David L
Hansen, Charles A
Hardin, Michael G
Hardwick Jr, Raymond J
Hartman, James K
Harvey, John R
Haspel, Abraham E
Hawkins, Francis C
Headley, Larry C
Heenan, Thomas F
Henderson, Lynwood H
Hensley Jr, Willie F
Hickok, Steven G
Hirahara, James S
Hoffman, Allan R
Holland, Michael D
Hollowell, Betty L N
Hooper, Michael K
Hopf, Richard H
Horton, Donald G
Huizenga, David G
Hunemuller, Maureen A
Hutzler, Mary Jean
Izell, Kathy D
Jaffe, Harold
Jenkins, Robert G
Johnson, Frederick M
Johnson, Milton D
Johnson, Owen B
Johnson, Robert Shane
Johnson, Sandra L
Johnston, Marc
Jones, C Rick
Jones, Marcus E
Joseph, Antionette Grayso
Juarez, Liova D
Juckett, Donald A
Judge, Geoffrey J
Kane, Michael C
Kelliher, Joseph T
Kennedy, John P
Kight, Gene H
Kilgore, Webster C
Kilpatrick, Michael A
Kirkman, Larry D
Kirk, Robert S
Klein, Keith A
Klein, Susan Elaine
Knipp, Robert M
Knollmeyer, Peter M
Knutson, Karen Y
Konopnicki, Thad T
Kovar, Dennis G
Kripowicz, Robert S
Kruger, Paul W
Kuckuck, Robert W
Landers, James C
Lane, Anthony R
Lange, Robert G
Lawrence, Andrew C
Lee, Steven NMN
Lehman, Daniel R
Levin Jr, William B
Lewis Jr, William A
Lewis, Roger A
Lien, Stephen CT
Lightner, Ralph G
Longsworth, Paul M
Lopatto, Jeanne T
Lowe, Owen W

Lundquist, Andrew D
Lyle, Jerry L
Maguire, Joseph J
Magwood IV, William D
Mahaley, Joseph S
Maher, Mark W
Male, Barbara D
Malosh, George J
Mangeno, James J
Mann, Thomas O
Marcus, Gail H
Marianelli, Robert S
Markel Jr, Kenneth E
Marks Jr, David L
Marlay, Robert C
Marmolejos, Poli A
Masterson, Mary A
Mazurowski, Barbara A
McBroom, John M
McCloud, Floyd R
McCracken, Stephen H
McCutcheon II, John H
McKee, Barbara N
McMonigle, Joseph P
McRae, James Bennett
McSlarrow, Kyle E
Meeks, Timothy J
Mellington, Suzanne P
Michelsen, Stephen J
Miller, Clarence L
Miller, Deborah C
Millhone, John P
Millman, William S
Milner, Ronald A
Miotla, Dennis M
Monette, Deborah D
Monhart, Jane L
Moorer, Richard F
Morgan, Jean M
Morris, Marcia L
Morrow, Margaret K
Mosquera, James P
Mournighan, Stephen D
Murphie, William E
Murphy, Alice Q
Murphy, Robert E
Nealy, Carson L
Neilsen, Finn K
Nelson, Rodney R
Nichols, Clayton R
Nolan, Elizabeth A
Norman, Paul E
Nulton, John D
O'Brien, Betsy K
O'Fallon, John R
Olinger, Shirley J
Oliver, Lawrence R
Oliver, Stephen R
Oosterman, Carl H
Ott, Merrie Christine
Owendoff, James M
Owen, Michael W
Owens, Karen A
Parks Jr, William P
Patrinos, Aristides A
Pearson, Orin F
Pease, Harrison G
Penry, Judith M
Perin, Stephen G
Pettengill, Harry J
Piper II, Lloyd L
Podonsky, Glenn S
Poe, Robert W
Powers, James G
Powers, Kenneth W
Price Jr, Robert S
Provencher, Richard B
Prudom, Gerald H
Przybylek, Charles S
Pumphrey, David L
Rabben, Robert G
Rapuano, Kenneth P
Reed, Craig R
Rhoderick, Jay E
Roberts, Michael NMN
Robison, Sally A
Rodeheaver, Thomas N
Rodekohr, Mark E
Rodgers, Stephen J
Rollow, Thomas A
Rooney, John M
Rosen, Simon Peter
Rosselli, Robert M
Rudins, George NMN
Rudy, Gregory P
Rudzinski, Suzanne M
Ryder, Thomas S
Salmon, Jeffrey T
Salm, Philip E
Sato, Walter N
Scalingi, Paula L
Schepens, Roy J
Schmitt, Eugene C
Schmitt, William A
Schnapp, Robert M
Schoenbauer, Martin J
Schwier, Jean F
Scott, Randal S
Sellers, Elizabeth D
Shearer, Elizabeth L
Sherman, Helen O
Siebert Jr, Arlie B
Silbergleid, Steven A
Singer, Marvin I
Siskin, Edward J
Sitzer, Scott B
Skubel, Stephen C
Smith, Alan C
Smith, Alexandra B
Smith, Barry Alan
Smith, Stephen M
Sohinki, Stephen M
Solich, Donald J
Stadler, Silas D
Staffin, Robin NMN
Stallman, Robert M
Stark, Richard M
Stewart Jr, Jake W
Stewart Jr, Frank M
Stone, Barbara R
Strakey Jr, Joseph P
Strauss, Neal J
Sullivan, John R
Sweeney II, James R
Swift, Justin R
Swink, Denise F
Sye, Linda G
Sylvester, William G
Taboas, Anibal L
Tavares, Antonio F
Taylor, William J
Tedrow, Richard T
Thomas, Iran L
Todd, John C
Torkos, Thomas M
Trautman, Stephen J
Triay, Ines R
Tryon, Arthur E
Tseng, John C
Turi, James A
Turner, James M
Underwood, William R
Vagts, Kenneth A
Valdez, William J
Van Fleet, James L
Vanzandt, Vickie A
Wagner, M Patrice
Wahlquist, Earl J
Waisley, Sandra L
Waldron, Robert E
Walsh, Robert J
Warnick, Walter L
Wegner, Gerald C
Weis, Michael J
Whatley, Michael D
Whitaker Jr, Mark B
White, James K
Whiteman, Albert E
Wieker, Thomas L
Wilcher, Larry D
Wilken, Daniel H
Williams, Alice C
Williams, Mark H
Willingham Jr, Frank M
Willis, John W
Wilmot, Edwin L
Worthington, Patricia R
Wright, Stephen J
Wu, Jeremy S
Wunderlich, Robert C
Yuan-Soo Hoo, Camille C
Zamorski, Michael J
Ziesing, Rolf F

Issued in Washington, DC, November 1, 2001.

Christina J. Edwards,

Principal Deputy Director, Office of Management, Budget and Evaluation.

[FR Doc. 01–27966 Filed 11–6–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board

AGENCY: U. S. Department of Energy.

ACTION: Designation of Performance Review Board Chair.

SUMMARY: This notice designates the Performance Review Board Chair for the Department of Energy.

EFFECTIVE DATE: The appointment is effective as of September 30, 2001.

Performance Review Board Chair

David L. Hamer, Department of Energy

Issued in Washington, DC November 1, 2001.

Christina J. Edwards,

Principal Deputy Director, Office of Management, Budget and Evaluation.

[FR Doc. 01–27967 Filed 11–6–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMBReview; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the energy information collections listed at the end of this notice to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 et seq).

DATES: Comments must be filed on or before December 7, 2001. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to the OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–3087. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland, Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585–0670. Ms. Sutherland may be contacted by telephone at (202) 287–1712, FAX at (202) 287–1705, or e-mail at Grace.Sutherland@eia.doe.gov.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e, new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Form RW–859, ''Nuclear Fuel Data Form''.
2. Office of Civilian Radioactive Waste.
3. OMB Number 1901–0287.
4. Three-year extension.
5. Mandatory.
6. Form RW–859 collects data to be used by the Office of Civilian Radioactive Waste to define, develop, and operate its storage that requires information on spent nuclear fuel inventories, generation rates, and storage capacities. Respondents are all owners of nuclear power plants and owners of spent nuclear fuel.
7. Business or other for-profit.
8. 1,237 per year (over 4 years) (52 respondents x 2.44 responses per year x 39 hours per response).

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13)(44 U.S.C. 3501 et seq).

Issued in Washington, D.C., October 30, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–27965 Filed 11–6–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–442–000]

Black Marlin Pipeline Co., MCNIC Black Marlin Offshore Co. and WBI Offshore Pipeline, Inc.; Notice of Application

November 1, 2001.

Take notice that on September 17, 2001, Black Marlin Pipeline Company (Black Marlin), MCNIC Black Marlin Offshore Company (MCNIC), and WBI Offshore Pipeline, Inc. (WBI) (Applicants) filed an application pursuant to sections 7(b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity and for authorization to abandon and transfer ownership in offshore natural gas pipeline facilities referred to as the Black Marlin pipeline 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).

Applicants state that the Black Marlin pipeline system is a certificated natural gas pipeline that is owned in undivided interests by Black Marlin, MCNIC, and WBI. Applicants further state that Williams Field Service Group recently purchased 100 percent of the capital stock of Black Marlin, MCNIC, and WBI. Applicants indicate that they are requesting the authorizations in order to merge the entire ownership and certificate authority for the Black Marlin pipeline system into a single corporate entity, which will be Black Marlin. Applicants state that the requested authorization will have no affect on the rates, services, or operation of the Black Marlin pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest 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 Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. 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 website under ''e-Filing'' link. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room of the Commission's offices.

David P. Boergers,

Secretary.

[FR Doc. 01–27893 Filed 11–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–14–000]

Columbia Gas Transmission Corporation; Notice of Application

November 1, 2001.

Take notice that on October 25, 2001, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP02–14–000 pursuant to section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon by sale to Somerset Gas Transmission Company, L.L.C. (Somerset) natural gas facilities located in Indiana and Clearfield Counties, Pennsylvania, and the service provided through such facilities. In addition, Columbia requests that the Commission find the abandoned facilities to be gathering and therefore exempt from the Commission's jurisdiction, all as more fully set forth in the application which is on file with the Commission and open to 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).

Columbia states that as a result of Order Nos. 436 and 636, it has experienced a shift from primarily a merchant function to that of transporter. As a result, Columbia states that it is taking steps to redefine its pipeline system. Columbia further states that the facilities to be sold to Somerset are not an integral part of its transmission system and that the long-term needs of its customers are best served through a divestiture of the non-core facilities.

Columbia states that on June 10, 2001, Columbia and Somerset signed a letter of intent and acceptance of proposal to purchase. Columbia further states that such letter provides for, i. e., the sale of two systems to Somerset; the Cookport system which consists of 6.44 miles of 4-, 6-, and 8-nch pipelines with a MAOP and a MOP of 720 psig and the Cookport compressor station which consists of 1–360 hp compressor unit and 2–540 hp compressor units and appurtenances, and the Harmony system which consists of 3.76 miles of 6-inch pipeline with a MAOP and MOP of 720 psig. It is stated that the price of the facilities to be sold to Somerset is $825,630.

Columbia states that it does not propose the abandonment of service to customers other than those currently served directly from the facilities. Also, Columbia states that Somerset has agreed to assume Columbia's service obligations to those customers. Columbia further states that although the Commission requires pipeline companies to make a tariff filing, pursuant to NGA section 4, within 30 days prior to the effective date of the transfer of gathering facilities to another party, Columbia requests waiver of this requirement. Instead, in the interest of efficiency and expediency, Columbia requests that the Commission accept the information provided within the application and in Exhibit Z–2 (List of Contracts to be Terminated) as its notice to terminate service pursuant to section 4 of the NGA.

Any questions regarding the application should be directed to Fredric J. George, Senior Attorney, Columbia Gas Transmission Corporation, P.O. Box 127, Charleston, Vest Virginia 22030–0146 at (304) 357–2359.

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 23, 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. 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.

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. 01–27894 Filed 11–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–11–000]

Orion Power Holdings, Inc., Astoria Generating Company, L.P., Carr Street Generating Station, L.P., Erie Boulevard Hydropower, L.P., Orion Power MidWest, L.P., Twelvepole Creek, LLC, Liberty Electric Power, LLC, Reliant Resources, Inc., and Reliant Energy Power Generation Merger Sub, Inc.; Orion Power Holdings, Inc., et al; Notice of Filing

October 30, 2001.

Take notice that on October 22, 2001, Orion Power Holdings, Inc. (Orion Power Holdings), Astoria Generating Company, L.P. (Astoria), Carr Street Generating Station, L.P. (Carr Street), Erie Boulevard Hydropower, L.P. (Erie Boulevard), Orion Power MidWest, L.P. (Orion Power MidWest), Twelvepole Creek, LLC (Twelvepole Creek), Liberty Electric Power, LLC (Liberty Electric), Reliant Resources, Inc. (Reliant Resources), and Reliant Energy Power Generation Merger Sub, Inc. (Merger Sub) (collectively, Applicants) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of the disposition of the jurisdictional facilities of Astoria, Carr Street, Erie Boulevard, Orion Power MidWest, Twelvepole Creek, and Liberty Electric, subsidiaries of Orion Power Holdings, that will occur as a result of the merger

of Merger Sub, a wholly-owned subsidiary of Reliant Resources, into Orion Power Holdings (the Transaction). After the Transaction, each share of stock in the Merger Sub will convert into stock of Orion Power Holdings, and each share of Orion Power Holdings' current outstanding common stock will be converted into the right to receive cash. Orion Power Holdings will be the surviving entity, and will become a wholly-owned subsidiary of Reliant Resources. Thus, the Transaction will result in Reliant Resources' indirect acquisition of Orion Power Holdings, its subsidiaries, and its subsidiaries' jurisdictional facilities.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–27896 Filed 11–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–10–000]

Reliant Energy Aurora, LP, Reliant Energy Coolwater, LLC, Reliant Energy Desert Basin, LLC, Reliant Energy Ellwood, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Indian River, LLC, Reliant Energy Mandalay, LLC, Reliant Energy Maryland Holdings, LLC, Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy New Jersey Holdings, LLC, Reliant Energy Ormond Beach, LLC, Reliant Energy Osceola, LLC, Reliant Energy Services, Inc., Reliant Energy Shelby County, LP, El Dorado Energy, LLC, Reliant Energy Aurora, L.P., et al.; Notice of Filing

October 30, 2001.

Take notice that on October 22, 2001, Reliant Energy Aurora, LP, Reliant Energy Coolwater, LLC, Reliant Energy Desert Basin, LLC, Reliant Energy Ellwood, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Indian River, LLC, Reliant Energy Mandalay, LLC, Reliant Energy Maryland Holdings, LLC, Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy New Jersey Holdings, LLC, Reliant Energy Ormond Beach, LLC, Reliant Energy Osceola, LLC, Reliant Energy Services, Inc., Reliant Energy Shelby County and El Dorado Energy, LLC (collectively, the Applicants), submitted an application pursuant to section 203 of the Federal Power Act, seeking authorization for a proposed corporate reorganization that would result in the transfer of indirect control of Applicants and their jurisdictional facilities.

The Applicants state that, as a result of a proposed corporate restructuring of certain of Applicants' parent companies, there will be a transfer of indirect control of Applicants' jurisdictional facilities. The Applicants further state that the proposed transaction will have no effect on competition, rates or regulation and is in the public interest.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 12, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–27895 Filed 11–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–833–000, *et al.*]

Pacific Gas and Electric Company, *et al.*; Electric Rate and Corporate Regulation Filings

November 1, 2001.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Company

[Docket No. ER01–833–000]

Take notice that on October 29, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Further Request for Deferral of Consideration of the unexecuted Wholesale Distribution Tariff (WDT) Service Agreement and Interconnection Agreement between Pacific Gas and Electric Company and Modesto Irrigation District (MID) filed in FERC Docket No. ER01–833–000 on December 29, 2000. PG&E and Modesto are finalizing the WDT Service Agreement and a letter agreement for review and signature, and PG&E therefore is notifying the Commission that executed agreements will not be filed by October 29, 2001, the requested deferral date. PG&E requests that the Commission defer consideration of the proceedings filed in ER01–833–000 to November 30, 2001, 31 days beyond the last request for Deferral in order that the parties may finalize and execute the Agreements.

Copies of this filing have been served upon MID, the California Independent System Operator Corporation, and the California Public Utilities Commission.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Cinergy Services, Inc.; The Cincinnati Gas & Electric Company; PSI Energy, Inc.; and Cinergy Power Investments, Inc.

[Docket No. ER02–177–000]

Take notice that on October 29, 2001, Cinergy Services, Inc., The Cincinnati Gas & Electric Company, PSI Energy, Inc. and Cinergy Power Investments, Inc., tendered for filing with the Federal Energy Regulatory Commission (Commission) an Application For Various Approvals Under Section 205 of the FPA. Copies of this filing have been served on the Public Utilities Commission of Ohio, the Kentucky Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. The Cincinnati Gas & Electric Company

[Docket No. ER02–178–000]

Take notice that on October 29, 2001, The Cincinnati Gas & Electric Company (CG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Cancellation, pursuant to 18 CFR 35.15 (2001), in order to reflect the termination of the Electric Service Agreement, dated October 3, 1991, between CG&E and The Union Light, Heat and Power Company (ULH&P), filed under the CG&E FPC Electric Tariff, Rate WS–P. Copies of this filing have been served on the only affected purchaser, ULH&P.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. The Cincinnati Gas & Electric Company

[Docket No. ER02–179–000]

Take notice that on October 29, 2001, The Cincinnati Gas & Electric Company (CG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Power Sales Agreement between CG&E and The Union Light, Heat and Power Company (ULH&P). Copies of this filing have been served on ULH&P.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Southwest Power Pool, Inc.

[Docket No. ER02–180–000]

Take notice that on October 29, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing with the Federal Energy Regulatory Commission (Commission) two executed service agreements for Firm Point-to-Point Transmission Service with Sempra Energy Trading Corporation and with Tex-La Electric Cooperative (collectively, Transmission Customers). SPP requests an effective date of January 1, 2002 for these service agreements.

Copies of this filing have been served on the Transmission Customers.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Avista Corporation

[Docket No. ER02–182–000]

Take notice that Avista Corporation, on October 29, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 35.12 of the Commissions, 18 CFR part 35.12, an executed Mutual Netting Agreement with IDACORP Energy L. P. effective 10/01/2001 under Rate Schedule FERC No. 289.

Notice of the filing has been served to the IDACORP Energy L.P. in Boise, Idaho and their credit manager.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Pool

[Docket No. ER02–183–000]

Take notice that on October 29, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted the Eightieth Agreement Amending New England Power Pool Agreement (Eightieth Agreement), which proposes changes to the Restated NEPOOL Agreement and the New England Power Pool Billing Policy in connection with a generation information system certificate and database system to be implemented for the NEPOOL Control Area.

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants, Non-Participant Transmission Customers and the New England state governors and regulatory commissions.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Delmarva Power & Light Company

[Docket No. ER02–184–000]

Take notice that Delmarva Power & Light Company, on October 29, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) First Revised Rate Schedule FERC No. 99 (Revised Rate Schedule) between Delmarva and the City of Seaford, Delaware. Delmarva requests that the Commission waive its notice of filing requirements to allow the Revised Rate Schedule to become effective retroactively as of January 1, 2000 because the revisions provide for a reduction in rates.

Copies of the filing were served upon the City of Seaford, Delaware and the Delaware Public Service Commission.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Pool

[Docket No. ER02–185–000]

Take notice that on October 29, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted a filing with the Federal Energy Regulatory Commission (Commission) requesting the approval of proposed changes to section 5.3.2(d) of Market Rule & Procedure 5 that amend the formula used to calculate whether a Generator is operating at its Desired Dispatch Point.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Xcel Energy Services Inc.

[Docket No. ER02–186–000]

Take notice that on October 29, 2001, Xcel Energy Services Inc. (XES), on behalf of Southwestern Public Service (SPS), submitted for filing with the Federal Energy Regulatory Commission (Commission) an Interconnection Agreement between SPS and Sunflower Electric Power Corporation.

SPS requests that the Commission accept the agreement effective October 1, 2001, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Progress Energy on Behalf of Florida Power Corporation

[Docket No. ER02–187–000]

Take notice that on October 29, 2001, Florida Power Corporation (FPC) filed an Amendment to the Service Agreement with The City of Homestead under FPC's Cost-Based Rates Tariff (CR–1), FERC Electric Tariff No. 9. A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

FPC is requesting an effective date of October 2, 2001 for this Amendment.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Geysers Power Company, LLC

[Docket No. ER02–188–000]

Take notice that on October 30, 2001, Geysers Power Company, LLC, tendered for filing with the Federal Energy Regulatory Commission (Commission) an information package in compliance with Schedule F of each of the Must-Run Service Agreements, dated June 1, 1999, with the California Independent System Operator Corporation, for Geysers Main and Geysers Units 13 and 16.

Comment date: November 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Fresno Cogeneration Partners, L.P.

[Docket No. ER02–189–000]

Take notice that on October 30, 2001, Fresno Cogeneration Partners, L.P. (Applicant), tendered for filing with the Federal Energy Regulatory Commission (Commission) under its market-based rate tariff a long-term service agreement with the California Department of Water Resources.

Comment date: November 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. American Transmission Company LLC

[Docket No. ER02–190–000]

Take notice that on October 30, 2001, American Transmission Company LLC (ATCLLC) tendered for filing with the Federal Energy Regulatory Commission (Commission) an unexecuted Network Operating Agreement and an unexecuted Revised Network Integration Service Agreement for Dairyland Power Cooperative. ATCLLC requests an effective date of October 1, 2001.

Comment date: November 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Southwest Power Pool, Inc.

[Docket No. ER02–191–000]

Take notice that on October 30, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing one executed service agreement for Firm Point-to-Point Transmission Service with Reliant Energy Services, Inc., and four executed service agreements for Firm Point-to-Point Transmission Service with Tenaska Power Services Company (collectively, Transmission Customers).

SPP requests an effective date of October 1, 2001 for these service agreements.

Copies of these filings were served on the Transmission Customers.

Comment date: November 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Northern Iowa Windpower LLC

[Docket No. ER02–192–000]

Take notice that on October 30, 2001, Northern Iowa Windpower LLC (Northern Iowa), 1001 McKinney, Suite 1740 Houston, Texas 77002, filed with the Federal Energy Regulatory Commission (Commission) the Top of Iowa Wind Project Renewable Energy Power Purchase Agreement by and between Northern Iowa and Wisconsin Power and Light Company (Wisconsin P&L), as assignee, dated as of February 23, 2001, as amended by the First Amendment to the Top of Iowa Wind Project Renewable Energy Power Purchase Agreement, dated as of July 17, 2001 (PPA). The filing is made pursuant to Northern Iowa's authority to sell power at market-based rates under its Market-Based Rate Tariff, Rate Schedule No. 1, Original Volume No. 1, approved by the Commission on May 3, 2001 in Docket No. ER01–1570–000.

Comment date: November 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Central Maine Power Company

[Docket No. ER02–193–000]

Take notice that on October 26, 2001, Central Maine Power Company (CMP) filed tariff sheets for its open access transmission tariff revised to comply with the order of the Federal Energy Regulatory Commission, issued on September 26, 2001, in Docket No. EC01–97–000.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. New York Independent System Operator, Inc.

[Docket No. ER02–194–000]

Take notice that on October 26, 2001, the New York Independent System Operator, Inc. (NYISO) submitted proposed tariff amendments to implement Interregional Transmission Pilot Program for generation redispatch in emergency conditions between the NYISO and the PJM Interconnection, L.L.C..

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. New York Independent System Operator, Inc.

[Docket No. ER02–195–000]

Take notice that on October 29, 2001, the New York Independent System Operator, Inc. (NYISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), revisions to its Market Administration and Control Area Services Tariff (Services Tariff) to revise the tariff's definition of ''Load Shedding.''

The NYISO has requested an effective date of December 28, 2001 for the filing.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Open Access Transmission Tariff and Services Tariff.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Ameren Services Company

[Docket No. ER02–196–000]

Take notice that on October 30, 2001, Ameren Services Company (Ameren Services), as agent for Central Illinois Public Service Company (d/b/a AmerenCIPS) and Union Electric Company (d/b/a AmerenUE), submitted an on an unexecuted basis an amended service agreement for Network Integrated Transmission Service and an amended Network Operating with the Illinois Municipal Energy Agency (IMEA), the transmission customer under the amended agreements.

Ameren Services requests an effective date of October 1, 2001 for these amended agreements. Ameren Services is filing these agreements on an unexecuted basis because it and IMEA have not yet executed the agreements, but seek to allow the service to commence on a timely basis as set forth in the agreements.

Copies of this filing were served upon IMEA and the Illinois Commerce Commission.

Comment date: November 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Tampa Electric Company

[Docket Nos. ER01–1895–003 and ER01–2485–002]

Take notice that on October 29, 2001, Tampa Electric Company (Tampa Electric) amended its September 27, 2001 compliance filing with the Federal Energy Regulatory Commission (Commission) in these dockets by submitting Original Sheet Nos. 6 and 7 for inclusion in Tampa Electric's Rate Schedule FERC No. 79. Tampa Electric states that the sheets contain a list of the existing Tampa Electric interchange rate

schedules formerly supplemented by the Addendum Concerning Sulfur Dioxide Emissions Allowances that now comprises the independent Rate Schedule FERC No. 79.

A copy of the compliance filing has been served on each person designated on the official service lists in these dockets, each party to an affected interchange contract, and the Florida Public Service Commission.

Comment date: November 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–27946 Filed 11–6–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3494–058 Pennsylvania]

Allegheny No. 6 Hydro Partners; Notice of Availability of Draft Environmental Assessment and Soliciting Comments, Protests, and Motions to Intervene

November 1, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application to install 12-inch-high flashboards at the Allegheny Lock and Dam No. 6 Hydroelectric Project and has prepared a Draft Environmental Assessment (DEA). The hydroelectric project is located at a U.S. Army Corps of Engineers dam (Lock and Dam No. 6) on the Allegheny River, near the town of Ford City, in Armstrong County, Pennsylvania. No other federal or tribal lands are occupied by the hydroelectric project.

The Commission has begun a proceeding to determine if reserved authority in article 17 of the license should be used to require 12-inch-high flashboards at Lock and Dam No. 6. Flashboards can be used to increase water levels in Pool No. 6 to more closely resemble pre-hydroelectric conditions. The proceeding is in response to concerns raised by the Pennsylvania Fish and Boat Commission and private citizens about the impacts of project-induced lower water levels on recreational boating in Pool No. 6. The DEA contains Commission staff's preliminary analysis of the potential environmental impacts of installing 12-inch-high flashboards and concludes that flashboards should not be installed at Lock and Dam No. 6 because of adverse impacts to wetlands.

A copy of the DEA is on file with the Commission and is available for public inspection. The DEA may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link—select ''Docket #'' (P–3494) and follow the instructions (call 202–208–2222 for assistance).

Any comments, protests, and motions to intervene should be filed within 60 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. P–3494–058 to all comments, protests, and motions to intervene.

Comments, protests, and motions to intervene may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

The Commission's rules of practice and procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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, 385.211, 385.214. 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.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. 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 licensee's representatives. For further information contact the licensee's representative: Robert Hanna, Sithe Energies, Inc., 1400 Fourth Avenue, Ford City, PA 16226 at (724) 763–2026 or the Commission's contact person: Steve Hocking at (202) 219–2656.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–27897 Filed 11–6–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30503A; FRL–6806–2]

Pesticide Product; Registration Approval

AGENCY: Environmental Protection Agency EPA.

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application to

register the pesticide product Bedoukian Z-11-Hexadecenyl Acetate Technical Pheromone containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Andrew Bryceland, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–6928; and e-mail address bryceland.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System NAICS codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access a fact sheet which provides more detail on this registration, go to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/, and select ''fact sheet.''

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30503A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information CBI. This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch PIRIB, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is 703–305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office A–101, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The request should identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service NTIS, 5285 Port Royal Road, Springfield, VA 22161.

II. Did EPA Approve the Application?

The Agency approved the application after considering all required data on risks associated with the proposed use of Z-11-hexadecenyl acetate, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of Z-11-hexadecenyl acetate when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

III. Approved Application

EPA issued a notice, published in the **Federal Register** of December 13, 2000 (65 FR 77874) (FRL–6749–2), which announced that Bedoukian Research, Inc., 21 Finance Drive, Danbury, CT 06810–4192, had submitted an application to register the pesticide product, Bedoukian Z-11-Hexadecenyl Acetate Technical Pheromone, a lepidopteran pheromone fungicide, containing the active ingredient Z-11-hexadecenyl acetate. This product was not previously registered.

The application (EPA Registration Number 52991–15) was approved on August 31, 2001, for use in the incorporation into end-use products intended for agricultural application. This product is not for direct treatment of pests.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 24, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–27596 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–917A; FRL–6808–5]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–917A, must be received on or before December 7, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–917A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6100; e-mail address: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–917A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–917A in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–917A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 27, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Aventis CropScience

PP 0F 6080

EPA published an initial filing of the pesticide petition (PP 0F 6080) in the **Federal Register** of February 17, 2000 (65 FR 8143) (FRL–6490–2). This notice announces the filing of the revised pesticide petition proposing the establishment of regulations for residues of deltamethrin, a pesticide chemical, in or on various food commodities. The revised petition is for changes made for the proposed tolerances for deltamethrin in/on almond hull, three crop subgroups and rapeseed and to include the proposed import tolerances for two tropical fruits as petitioned through the Minor Crop Pest Management program (IR-4).

EPA has received a pesticide petition (PP 0F 6080) from Aventis CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, N.C. 27709 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of deltamethrin in or on the raw agricultural commodities bulb vegetables, cucurbit vegetables, fruiting vegetables, head and brassica vegetables and mustard greens, leafy vegetables, root vegetables (except sugarbeet), tuberous and corm vegetables, carambola and litchi fruits (import only), pome fruits, stone fruits, tree nuts, ruminant and poultry commodities, milk, milkfat, eggs, canola and rapeseed, field corn, sorghum, soybeans, sunflowers and wheat grain and grain dust (post harvest). Based on the fact that tralomethrin, another synthetic pyrethroid insecticide, is rapidly metabolized in plants and animals to deltamethrin, and the toxicological profile of the two compounds is similar, it is appropriate to consider a combined exposure assessment for tralomethrin and deltamethrin. The proposed tolerances range from 0.02 to 7.0 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. Deltamethrin metabolism studies in tomatoes, corn, apples, and cotton demonstrate the same metabolic pathway. Furthermore, plant metabolism studies have been conducted following application of tralomethrin in cotton, corn, cabbage, and tomatoes. These studies have demonstrated that the metabolism of tralomethrin involves debromination to deltamethrin and its isomers. Thus, a similar metabolic pathway has been shown to occur in a variety of crops following either direct application of deltamethrin (cotton, corn, apples, and tomatoes) or in-plant formation of deltamethrin via debromination of applied tralomethrin (tomatoes, cotton, corn, and cabbage). As a result of this substantial information base, it is concluded that the residues of toxicological concern in/on growing crops following application of tralomethrin or deltamethrin are tralomethrin, cis-deltamethrin, and its isomers, trans-deltamethrin and alpha-*R*-deltamethrin.

2. *Analytical method*. Analytical methods for determining residues of tralomethrin and deltamethrin in various commodities for which registrations have been approved, or are being sought, have been submitted to the Agency. These methods, are based on gas chromatography (GLC) equipped with an electron capture detector (ECD) and a DB-1 (or equivalent) capillary column, and are used for the determination of tralomethrin, *cis*-deltamethrin, *trans*-deltamethrin, and alpha-*R*-deltamethrin in various raw agricultural, animal-derived, and processed commodities. These methods were independently validated and are appropriate for the determination of residues of tralomethrin and deltamethrin in various food and feed commodities after application of these ingredients to target growing crops, and after use in food/feed handling establishments.

3. *Magnitude of residues*. Residues of tralomethrin, deltamethrin, and its metabolites are not expected to exceed the established and/or proposed tolerance levels as a result of the use of these active ingredients on target crops, or at target sites.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral LD_{50} values of deltamethrin in the rat were 66.7 milligrams/kilogram (mg/kg) for males and 86 mg/kg for females, and for tralomethrin 99 mg/kg for males and 157 mg/kg for females when administered in sesame oil. The oral LD_{50} for deltamethrin when administered in aqueous methyl cellulose was greater than 5,000 mg/kg for both sexes. The dermal LD_{50} in rabbits was greater than 2,000 mg/kg for both materials. Inhalation 4–hour LC_{50} values in the rat were 2.2 mg/L for deltamethrin and greater than 0.286 mg/L for tralomethrin.

2. *Genotoxicity*. No indication of genotoxicity was noted in a battery of *in vivo* and *in vitro* studies conducted with either deltamethrin or tralomethrin.

3. *Reproductive and developmental toxicity*—i. *Deltamethrin*. A rat development toxicity study conducted with deltamethrin indicated a maternal no observed adverse effect level (NOAEL) of 3.3 mg/kg/day based on clinical observations, decreased weight gain and mortality. The developmental NOAEL was 11 mg/kg/day highest dose tested (HDT). In a rabbit development toxicity study with deltamethrin, the maternal NOAEL was considered to be 10 mg/kg/day based on decreased defecation at 25 and 100 mg/kg/day, and mortality at 100 mg/kg/day. The developmental NOAEL was considered

to be 25 mg/kg/day based on retarded ossification of the public and tail bones at 100 mg/kg (HDT).

A 3–generation rat reproduction study and a more recent, 2–generation rat reproduction study with deltamethrin indicated the NOAEL for both parents and offspring was 80 ppm (4–12 mg/kg/day for adults and 18–44 mg/kg/day for offspring) based on clinical signs of toxicity, reduced weight gain and mortality at 320 ppm (HDT).

ii. *Tralomethrin*. In a rat developmental toxicity study with tralomethrin, the NOAEL for maternal and developmental toxicity was judged to be greater than or equal to 18 mg/kg/day (HDT).

No evidence of developmental toxicity was observed in either of two rabbit developmental toxicity studies conducted with tralomethrin. In one study, the maternal NOAEL was 12.5 mg/kg/day based on mortality, while the developmental NOAEL was judged to be greater than or equal to 25 mg/kg/day (HDT). In the second study, the maternal NOAEL was 8 mg/kg/day based on body weight effects while the developmental NOAEL was 32 mg/kg/day (HDT).

In a 2–generation reproduction study with tralomethrin in rats, the parental NOAEL was 0.75 mg/kg/day based on body weight deficits while the NOAEL for offspring was 3.0 mg/kg/day, also based on body weight deficits.

4. *Subchronic toxicity*—i. *Deltamethrin*. A 90–day rat oral toxicity study was conducted with deltamethrin which was administered by gavage. The NOAEL was judged to be 1.0 mg/kg/day based on reduced body weight gain and slight hypersensitivity. In more recent 90–day rat dietary study with deltamethrin, the NOAEL was judged to be 300 ppm (23.9 mg/kg/day for males, 30.5 mg/kg/day for females) based on uncoordinated movement, unsteady gait, tremors, increased sensitivity to sound, shakes and spasmodic convulsions. The difference in the NOAELs between the two studies is attributed to the different routes of exposure (gavage in oil vs. administered in diet).

A 12–week study was conducted with deltamethrin in mice. The NOAEL was 300 ppm (61.5 mg/kg/day in males and 77.0 mg/kg/day in females) based on chronic contractions, convulsions, poor condition, decreased weight gain and mortality.

Two 13–week dog studies were conducted with deltamethrin. In the first study, beagle dogs were administered deltamethrin by capsule using PEG 200 as a vehicle. The NOAEL for this study was 1 mg/kg/day based on tremors, unsteadiness, jerking movements, salivation, vomiting, liquid feces and/or dilation of the pupils. In the second study, deltamethrin was administered by capsule without a vehicle to beagle dogs. The NOAEL for this study was 10 mg/kg/day based on unsteady gait, tremors, head shaking, vomiting and salivation. The difference in toxicity between the two studies is attributed to the enhanced absorption resulting from the use of PEG 200 as a vehicle in the first study.

A 21–day dermal toxicity study was conducted with deltamethrin in rats. The NOAEL for systemic toxicity was determined to be 1,000 mg/kg/day.

In a subchronic inhalation study, rats were exposed to aerosolized deltamethrin for 6 hours per day, 5 days per week, for a total of 14 days over 3 weeks. Based on slightly decreased body weights and neurological effects at higher dose levels, it was concluded that 3 g/L was the no observable effect concentration for systemic effects in this study.

ii. *Tralomethrin*. Tralomethrin was administered by gavage in corn oil to rats for 13 weeks. Based on mortality, decreased activity and motor control, soft stools, labored breathing and significantly lower absolute and relative mean liver weights, the NOAEL was considered to be 1 mg/kg/day.

Tralomethrin was administered by capsule to beagle dogs for 13 weeks. The NOAEL for this study was 1.0 mg/kg/day based on refusal of milk supplement, tremors, exaggerated patellar response, unsteadiness and uncoordinated movement.

A 21–day dermal toxicity study was conducted with tralomethrin on rats. No systemic effects were observed; therefore, the systemic NOAEL for this study was 1,000 mg/kg/day.

5. *Chronic toxicity*—i. *Deltamethrin*. Deltamethrin was administered in the diet to beagle dogs for 2 years. No treatment-related effects were observed and the NOAEL was judged to be 40 ppm (1.1 mg/kg/day). In a more recent study, deltamethrin was administered by capsule (without a vehicle) to beagle dogs for 1–year. The NOAEL in this study was considered to be 1 mg/kg/day based on clinical signs, decreased food consumption and changes in several hematology and blood chemistry parameters.

Two rat chronic toxicity/oncogenicity studies were conducted with deltamethrin. In the first study, the test substance was administered via the diet to rats for 2 years. The NOAEL for this study was 20 ppm (1 mg/kg/day) based on slightly decreased weight gain. In a more recent study, deltamethrin was administered to rats in the diet for 2 years. The NOAEL for this study was considered to be 25 ppm (1.1 and 1.5 mg/kg/day for males and females, respectively) based on neurological signs, weight gain effects and increased incidence and severity of eosinophilic hepatocytes and/or ballon cells. No evidence of carcinogenicity was noted in either study.

Two mouse oncogenicity studies were conducted with deltamethrin. In the first study, deltamethrin was administered in the diet for 2 years. No adverse effects were observed and the NOAEL was judged to be 100 ppm (12 and 15 mg/kg/day, respectively, for males and females). In a more recent study, deltamethrin was administered in the diet to mice for 97 weeks. The NOAEL was considered to be 1,000 ppm (15.7 and 19.6 mg/kg/day) based on a higher incidence of poor physical condition and a slight transient weight reduction. There was no evidence of oncogenicity in either study.

ii. *Tralomethrin*. Tralomethrin was administered to beagle dogs by capsule for 1–year at initial dosages of 0, 0.75, 3.0 and 10.0 mg/kg/day. Due to trembling, ataxia, prostration and convulsions, the high dosage was lowered to 8 mg/kg/day at study week 4 and lowered again to 6 mg/kg/day on study week 14. On the fourteenth week of study, the 0.75 mg/kg/day dosage was raised to 1.0 mg/kg/day. Based on body weight changes, convulsions, tremors, ataxia and salivation, the NOAEL for this study was considered to be 1 mg/kg/day.

Tralomethrin was administered by gavage to rats for 24 months. The NOAEL for this study was 0.75 mg/kg/day based on salivation, uncoordinated movement, inability to support weight on limbs and decreased body weight parameters. No evidence of carcinogenicity was observed.

A 2–year mouse oncogenicity study was conducted with tralomethrin administered by gavage. The NOAEL was judged to be 0.75 mg/kg/day based on higher incidences of dermatitis and mortality, salivation, uncoordinated involuntary movements and aggressiveness. No evidence of oncogenicity was observed.

6. *Animal metabolism*—i. *Deltamethrin*. The absorption of deltamethrin appears to be highly dependent upon the route and vehicle of administration. Once absorbed, deltamethrin is rapidly and extensively metabolized and excreted, primarily within the first 48 hours.

ii. *Tralomethrin*. Tralomethrin is rapidly metabolized to deltamethrin after debromination. The metabolic

pattern of the *in vivo* debrominated tralomethrin is exactly the same as that of the metabolic pattern of deltamethrin.

7. *Endocrine disruption*. No special studies have been conducted to investigate the potential of deltamethrin or tralomethrin to induce estrogenic or other endocrine effects. However, the standard battery of required toxicity studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects, yet no such effects were detected. Thus, the potential for deltamethrin or tralomethrin to produce any significant endocrine effects is considered to be minimal.

8. *Neurotoxicity*. Acute delayed neurotoxicity studies in hens were conducted for both deltamethrin and tralomethrin. In both cases, the study results were negative indicating that neither material causes delayed neurotoxicity.

In an acute neurotoxicity study with deltamethrin in rats, mortality and numerous clinical signs of neurotoxicity (including altered gait, salivation, tremors, convulsions, writhing, and reduced grip strength) were noted after a single oral administration of a dose of 50 mg/kg. In addition, potential effects (limited to a single male and female) were observed at a dose level of 15 mg/kg. Therefore, the NOAEL for this study was 5 mg/kg.

In a subchronic neurotoxicity study with deltamethrin in rats, mortality, decreased weight gain and numerous clinical signs of neurotoxicity (including writhing, hind limb splay, convulsions, lurching, and reduced grip strength) were noted after daily dietary administration for 13 consecutive weeks at 800 ppm. The NOAEL for systemic toxicity and neurotoxicity in this study was found to be 200 ppm (14 and 16 mg/kg/day for males and females, respectively).

C. Aggregate Exposure

Based on the fact that tralomethrin is rapidly metabolized in plants and animals to deltamethrin, and the toxicological profile of the two compounds is similar, it is appropriate to consider combined exposure assessments for tralomethrin and deltamethrin. Deltamethrin and tralomethrin are broad spectrum insecticides used to control pests of crops, ornamental plants and turf, and domestic indoor and outdoor (including dog collars and direct application to livestock), commercial, and industrial food use areas. Thus, aggregate non-occupational exposure could include exposures resulting from non-food uses in addition to consumption of potential residues in food and water. Exposure via drinking water is expected to be negligible since deltamethrin binds tightly to soil and rapidly degrades in water.

1. *Dietary exposure*—i. *Food*. Food tolerances have been established for residues of tralomethrin and/or deltamethrin and its metabolites in or on a variety of raw agricultural commodities. These tolerances, in support of registrations, currently exist for residues of tralomethrin on broccoli, cottonseed, head lettuce, leaf lettuce, soybeans, sunflower seed, and cottonseed oil. Also, tolerances in support of registrations currently exist for deltamethrin on cottonseed and cottonseed oil. Additionally, tolerances have been established for tralomethrin to support its use in food/feed handling establishments, and for deltamethrin on tomatoes and concentrated tomato products to support the importation of tomato commodities treated with deltamethrin. Further, a food/feed handling establishment tolerance has recently been established for deltamethrin. Additional tolerances are being proposed for deltamethrin in the subject pesticide tolerance petition. Potential acute exposures from these relevant food commodities were estimated using a Tier 3 acute dietary risk assessment (Monte Carlo Analysis) following EPA guidance. Potential chronic exposures from food commodities under the established food and feed additive tolerances for deltamethrin and tralomethrin, plus the tolerances for deltamethrin associated with use in food/feed handling areas, and the tolerances proposed in this petition for deltamethrin, were estimated using NOVIGEN's DEEM (Dietary Exposure Evaluation Model). This chronic risk assessment was conducted using anticipated residues based on field trial or monitoring data, percent crop treated, and percent food handling establishments treated.

ii. *Drinking water*. USEPA's Standard Operating Procedure (SOP) for Drinking Water Exposure and Risk Assessments was used to perform the drinking water analysis for deltamethrin. The SOP compares a calculated drinking water level of comparison (DWLOC) value to the drinking water estimated concentration (DWEC) value. The DWEC value results from either the monitoring data residues and modeled water residues. If the DWLOC value exceeds the DWEC value then there is reasonable certainty that no harm will result from aggregate exposure.

The calculated drinking water levels of comparison (DWLOC) for short-term exposure for all adults, children 1-6 and infants were estimated to be 1,784 parts per billion (ppb), 926 ppb and 555 ppb, respectively. All of these DWLOC values exceed the short-term modeled deltamethrin water residue of 0.063 ppb. The calculated DWLOC for chronic exposure for all adults, children 1-6 and infants were estimated to be 355 ppb, 185 ppb and 112 ppb, respectively. All of these DWLOC values exceed the chronic modeled deltamethrin water residue of 0.004 ppb. Therefore, there is reasonable certainty that no harm will result from water exposure to deltamethrin residues.

2. *Non-dietary exposure*. As noted above, deltamethrin and tralomethrin are broad spectrum insecticides registered for use on a variety of food and feed commodities. Additionally, registrations are held for non-agricultural applications including turf and lawn care treatments, broadcast carpet treatments (professional use only), indoor fogger, spot, crack and crevice treatments, dog collars, insect baits, lawn and garden sprays and indoor and outdoor residential, industrial and institutional sites including those for food/feed handling establishments.

To evaluate non-dietary exposure, the ''flea infestation control'' scenario was chosen to represent a plausible but worst case non-dietary (indoor and outdoor) non-occupational exposure. This scenario provides a situation where deltamethrin and/or tralomethrin are commonly used and can be used concurrently for a multitude of uses, e.g., spot and/or broadcast treatment of infested indoor surfaces such as carpets and rugs, treatment of pets and treatment of the lawn. This hypothetical situation provides a very conservative, upper bound estimate of potential non-dietary exposures. Consequently, if health risks are acceptable under these conditions, the potential risks associated with other more likely scenarios would also be acceptable.

Because tralomethrin is rapidly metabolized to deltamethrin, and the toxicology profiles of deltamethrin and tralomethrin are virtually identical, an aggregate (non-dietary + chronic dietary) exposure/risk assessment was conducted for the combination of both active ingredients. The total exposure to both materials was expressed as ''deltamethrin equivalents'' and this was compared to the toxicology endpoints identified for deltamethrin.

D. Cumulative Effects

When considering a tolerance, the Agency must consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Aventis CropScience believes that ''available information'' in this context includes not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments.

Further, Aventis does not have, at this time, available data to determine whether tralomethrin and deltamethrin have a common mechanism of toxicity with other substances. For the purposes of this tolerance action, therefore, no assumption has been made that tralomethrin and deltamethrin have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* The toxicity and residue data base for deltamethrin and tralomethrin is considered to be valid, reliable and essentially complete according to existing regulatory requirements. No evidence of oncogenicity has been observed for either compound. In accordance with EPA's ''Toxicology Endpoint Selection Process'' Guidance Document for acute exposures, the toxicology endpoint from the deltamethrin rat acute neurotoxicity study, 5.0 mg/kg/day, was used. For chronic exposures to deltamethrin and tralomethrin, the Reference Dose (RfD) of 0.01 mg/kg body weight/day established for deltamethrin based on the NOAEL from the 2–year rat feeding study and a 100-fold safety factor to account for interspecies extrapolation and intraspecies variation was used.

For the overall U.S. population, acute dietary exposure at the 99.9th percentile results in utilization of 5.3% of the acute RfD that is equivalent to a Margin of Exposure (MOE) of 1,901. For the overall U.S. population, chronic dietary exposure results in a utilization of 1.0% of the RfD. Using an upper bound estimate of potential non-dietary exposures for a worst case scenario (flea treatment) results in a MOE of at least 59,229 for adults. Utilizing the scenario of chronic dietary exposure plus an upper bound estimate of potential non-dietary exposure from a worst case scenario (flea treatment), it is shown that for aggregate exposure to deltamethrin and tralomethrin there is an MOE of 15,559 for adults. For acute and short-term exposures there is generally no concern for MOEs greater than 100. For chronic exposure, there is generally no concern for exposure below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

In conclusion, there is reasonable certainty that no harm will result to the U.S. population, in general, from dietary or aggregate exposure to deltamethrin and/or tralomethrin.

2. *Infants and children.* Data from developmental toxicity studies in rats and rabbits, and multi-generation reproduction studies in rats, are generally used to assess the potential for increased sensitivity of infants and children. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to reproductive and other effects on adults and offspring from prenatal and postnatal exposure to the pesticide. None of these studies conducted with deltamethrin or tralomethrin indicated developmental or reproductive effects as a result of exposure to these materials.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base. Based on the current toxicological data requirements, the data base relative to prenatal and postnatal effects in children is complete. Although no indication of increased susceptibility to younger animals was noted in any of the above studies, or in the majority of studies with other pyrethroids, several publications have reported that deltamethrin is more toxic to neonate and weanling animals than to adults. However, a joint industry group was unable to reproduce these findings. Furthermore, the RfD (0.01 mg/kg/day) that has been established for deltamethrin is already more than 1,000-fold lower than the lowest NOAEL from the developmental and reproduction studies. Therefore, the RfD of 0.01 mg/kg/day is appropriate for assessing chronic aggregate risk to infants and children and an additional uncertainty factor is not warranted. Also, the NOAEL of 5.0 mg/kg/day from the rat acute neurotoxicity study is appropriate to use in acute dietary, short-term non-dietary, and aggregate exposure assessments.

For the population subgroup described as infants, less than 1 year old, the acute dietary exposure at the 99.9th percentile utilizes 7.2% of the acute RfD that is equivalent to a MOE of 1,382. For the population subgroup described as children 1-6 years old, the acute dietary exposure at the 99.9th percentile utilizes 6.7% of the acute RfD that is equivalent to a MOE of 1,504. For infants less than 1 year old, chronic dietary exposure results in a utilization of 0.9% of the RfD, and for children 1-6 years old 2.3% of the RfD is utilized. Using an upper bound estimate of potential non-dietary exposures for a worst case scenario (flea treatment) results in an MOE of at least 15,015 for infants less than 1 year old, and an MOE of at least 15,974 for children 1-6 years old. Utilizing the scenario of chronic dietary exposure plus an upper bound estimate of potential non-dietary exposure from a worst case scenario (flea treatment) it is shown that for aggregate exposure to deltamethrin and tralomethrin, there is an MOE of at least 4,900 for infants less than 1 year old, and an MOE of 4,250 for children 1-6 years old. For acute and short-term exposures there is generally no concern for MOEs greater than 100. For chronic exposure, there is generally no concern for exposure below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

In summary, there is reasonable certainty that no harm will result to infants and children from aggregate exposure to either deltamethrin or tralomethrin.

F. International Tolerances

Deltamethrin is a broad spectrum insecticide used throughout the world to control pests of livestock, crops, ornamentals plants and turf, and household, commercial, and industrial food use areas. A reevaluation of the maximum residue limits (MRLs) was conducted in 1994, in accordance with the EC Directive (91/414/EEC) Registration Requirements for Plant Protection Products. A comparison of the proposed/current CODEX MRLs and proposed/established tolerances for deltamethrin is presented below:

Commodity	Proposed Tolerance (USEPA) (PPM)	Proposed/Current MRL (CODEX) (PPM)
Almond hulls	1.2	--
Apples, wet pomace	1.2	--
Artichokes	0.5	0.05
Brassica, head and stem crop subgroup 5A, excluding cabbage	0.50	0.2 (brassica vegetables)
Bulb vegetables	1.5	0.1 (bulb vegetables, except fennel, bulb)
Cabbage (w/wrapper leaves)	1.5	--
Cabbage (w/o wrapper leaves)	0.15	0.2 (brassica vegetables)
Carambola (star fruit)	0.2	--
Corn, field grain	0.06	1.0 (cereal grains)
Corn, forage (field)	0.7	--
Corn, fodder/stover (field)	7.0	0.5 (straw and fodder, cereal grains)
Corn, refined oil	0.6	--
Corn, flour	0.18	--
Corn, meal	0.12	--
Corn, milled by products	0.18	--
Cucurbit vegetables	0.06	0.2
Eggs	0.02	--
Fruiting vegetables	0.25	0.2
Leafy vegetables	4.5	0.5
Lichi fruit	0.2	--
Milk, fat (reflecting 0.02 ppm in whole milk)	0.1	0.02 (milks); and 0.03 cattle milk
Mustard greens	4.5	0.2 (brassica vegetables)
Pome fruit	0.2	0.1
Poultry, fat	0.05	0.5 (chicken fat)
Poultry, mbyp	0.02	--
Poultry, meat	0.02	0.01 (poultry meat); and 0.03 (chicken muscle)
Prunes	2.4	--
Rapeseed (including canola and crambe)	0.12	0.1 (oilseed)
Root vegetable, except sugarbeet (subgroup 1B): roots	0.15	0.01 (root and tuber vegetables)
Ruminant fat	0.04	0.5
Ruminant mbyp	0.02	0.05 (edible offal, mammalian)
Ruminant meat	0.02	0.5
Sorghum, forage	0.5	--
Sorghum, fodder/stover	2.0	0.5 (straw and fodder, cereal grains)
Sorghum, grain	0.5	1.0 (cereal grains)

Commodity	Proposed Tolerance (USEPA) (PPM)	Proposed/Current MRL (CODEX) (PPM)
Soybeans	0.05	0.5 (legume animal feeds, dry weight)
Stone fruit	0.6	0.05
Sunflower seeds	0.05	0.1 (oilseed)
Tops	4.0	--
Tree nuts	0.1	--
Tuberous and corm vegetables subgroup 1C, excluding artichokes	0.04	0.01 (root and tuber vegetables)
Wheat gluten (post harvest)	1.4	--
Wheat, grain (post harvest)	2.0	1.0
Wheat, grain dust (post harvest)	2.7	--

[FR Doc. 01–27598 Filed 11–06–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1050; FRL–6807–9]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1050, must be received on or before December 7, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1050 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva C. Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373; e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1050. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1050 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1050. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 27, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Huntsman Corporation

1E6350

EPA has received a pesticide petition (1E6350) from Huntsman Corporation, 3040 Post Oak Blvd., Houston, TX 77056 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend the tolerance exemption listed under 40 CFR 180. 1,001 (c) for 1,2-ethanediamine, polymer with methyl oxirane and oxirane to include a number average molecular weight of 1,100. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

Analytical method. Huntsman is petitioning that 1,2-ethanediamine, polymer with methyl oxirane and oxirane be exempt from the requirement of a tolerance based upon the definition of a low risk polymer under 40 CFR 723.250(e). Therefore, an analytical method to determine residues of 1,2-ethanediamine, polymer with methyl oxirane and oxirane in raw agricultural commodities (RACs) is not required.

B. Toxicological Profile

In the case of certain chemical substances that are defined as ''polymers,'' the Agency has established a set of criteria which identifies categories of polymers that present low risk. These criteria, described in 40 CFR 723.250(e), identify polymers that are typically not readily absorbed, and are relatively unreactive and stable compounds in comparison to other chemical substances. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low risk polymers.

1. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane is not a cationic polymer, nor is it capable of becoming a cationic polymer in the natural aquatic environment.

2. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane contains as an integral part of its composition, the

atomic elements carbon, hydrogen, nitrogen, and oxygen.

3. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(iii).

4. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane is manufactured using monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or covered under an applicable TSCA section 5 exemption.

6. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane is not a water absorbing polymer with a number average molecular weight greater than or equal to 10,000 daltons.

7. The number average molecular weight of 1,2-ethanediamine, polymer with methyl oxirane and oxirane is 1,100. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

8. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane contains less than 10% oligomeric material below molecular weight 500 and less than 25% oligomeric material less than molecular weight 1,000.

9. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane does not contain reactive functional groups.

Endocrine disruption. There is no evidence that 1,2-ethanediamine, polymer with methyl oxirane and oxirane is an endocrine disrupter, where as substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the GI tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane is not absorbed through the intact GI tract and is considered to be incapable of eliciting a toxic response.

ii. *Drinking water*. Based upon the aqueous insolubility of 1,2-ethanediamine, polymer with methyl oxirane and oxirane, there is no reason to expect human exposure to residues in drinking water.

2. *Non-dietary exposure*. Although there may be exposures to 1,2-ethanediamine, polymer with methyl oxirane and oxirane through dietary and or non-occupational sources, the chemical characteristics of this compound are such that there is reasonable certainty of no harm from aggregate exposure.

D. Cumulative Effects

There is not a reasonable expectation of any increased risk due to cumulative expsoures to 1,2-ethanediamine, polymer with methyl oxirane and oxirane, since polymers with molecular weights greater than 400 generally are not absorbed through the skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact GI tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

E. Safety Determination

1. *U.S. population*. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane causes no safety concerns because it conforms to the definition of a low risk polymer given in 40 CFR 723.250(b) and, as such, is considered to be incapable of eliciting a toxic response.

2. *Infants and children*. 1,2-Ethanediamine, polymer with methyl oxirane and oxirane causes no additional concern to infants and children because it conforms to the definition of a low risk polymer given in 40 CFR 723.250(b) and, as such, in considered to be incapable of eliciting a toxic response.

F. International Tolerances

Huntsman is not aware of any country requiring a tolerance for 1,2-ethanediamine, polymer with methyl oxirane and oxirane, nor have there been any codex maximum residue levels established for any food crops at this time.

[FR Doc. 01–27599 Filed 11–06–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7099–8]

Proposed CERCLA Administrative Cost Recovery Settlement: Former Diller Battery Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Former Diller Battery site in Des Moines, Iowa with the following settling parties: City of Des Moines, Iowa, Union Pacific Railroad Company, Polk County, Iowa, Richard A. Bartolomei and Dennis L. Eppard. The settlement requires the settling parties to pay $75,000 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the Des Moines North Side Public Library, 3516 5th Avenue, Des Moines, Iowa 50313, and at the U.S. Environmental Protection Agency, Region 7, Regional Records Center, 901 North 5th Street, Kansas City, Kansas 66101.

DATES: Comments must be submitted on or before December 7, 2001.

ADDRESSES: Copies of the documents relevant to this proposed settlement may be obtained from Mike Gieryic, Office of Regional Counsel, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7822. Comments should reference the Former Diller Battery site, Des Moines, Iowa, and should be addressed to Kathy Robinson, Regional Hearing Clerk, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Mike Gieryic, Office of Regional

Counsel, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7822.

Dated: October 18, 2001.

James B. Gulliford,

Regional Administrator, Region VII.

[FR Doc. 01–27948 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7099–7]

Proposed Past Cost Administrative Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response Compensation and Liability Act; In the Matter of Westmoor Drive Site, Kokomo, IN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Westmoor Drive site in Kokomo, Indiana. The settlement requires Helen Schifferi (''Settling Party'') to pay $2,000.00 to the Hazardous Substance Superfund, which represents the amount of U.S. EPA's documented past costs Settling Party is able to pay.

Under the terms of the settlement, Settling Party agrees to pay the settlement amount. In exchange for Settling Party's payment, the United States covenants not to sue or take administrative action pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), relating to the Site. In addition, Ms. Schifferli is entitled to protection from contribution actions or claims as provided by sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. 9613 (f)(2) and 9622(h)(4), for all response costs incurred and to be incurred by any person at the Site.

For thirty (30) days after the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at EPA's Region 5 Office at 77 West Jackson Boulevard, Chicago, Illinois 60604, and at the Kokomo Howard County Public Library in Kokomo, Indiana.

DATES: Comments must be submitted on or before December 7, 2001.

ADDRESSES: The proposed settlement is available for public inspection at EPA's Record Center, 7th floor, 77 W. Jackson Blvd., Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Tamara Carnovsky, Assistant Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois, 60604, telephone (312) 886–2250. Comments should reference the Westmoor Drive Site, Kokomo, Indiana, and EPA Docket No. V–W–01–C–664, and should be addressed to Tamara Carnovsky, Assistant Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Tamara Carnovsky, Assistant Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604, telephone (312) 886–2250.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601, *et. seq.*

Dated: October 15, 2001.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 01–27949 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7099–9]

Notice of Proposed Agreement for Recovery of Past Response Costs Pursuant to Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Meramec Drum Site, Arnold, Missouri, Docket No. CERCLA 07–2001–0084

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Agreement for Recovery of Past Response Costs, Meramec Drum Site, Arnold, Missouri.

SUMMARY: Notice is hereby given of a proposed agreement for recovery of past response costs concerning the Meramec Drum Site, Arnold, Missouri, with the following parties: Meramec Marine Shipyard, Inc., Thomas E. Dlubac and Edward Theodore Dlubac (Settling Parties). This proposed settlement was signed by the United States Environmental Protection Agency (EPA) on October 17, 2001.

DATES: EPA will receive written comments relating to the proposed agreement for recovery of past response costs by December 7, 2001.

ADDRESSES: Comments should be addressed to Cheryle Micinski, Associate Regional Counsel, United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101 and should refer to the Meramec Drum Site Proposed Agreement for Recovery of Past Response Costs, Docket No. CERCLA–07–2001–0084.

The proposed settlement may be examined or obtained in person or by mail from Kathy Robinson, Regional Hearing Clerk, at the office of the United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, KS 66101, (913) 551–7567.

SUPPLEMENTARY INFORMATION: This Proposed Agreement concerns the Meramec Drum Site, located in Arnold, Missouri, and is made and entered into by EPA and the Meramec Marine Shipyard, Inc., Thomas E. Dlubac, and Edward Theodore Dlubac (Settling Parties).

In response to the release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to section 104 of CERCLA, 42 U.S.C. 9604. In addition, EPA provided oversite of response actions undertaken by the Settling Parties. In performing this response action, EPA incurred response costs at or in connection with the Site.

Pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), the Settling Parties are responsible parties and are jointly and severally liable for response costs incurred at or in connection with the Site. The Regional Administrator EPA, Region VII, or his designee, has determined that the total past and projected response costs of the United States at or in connection with the Site will not exceed $500,000, excluding interest.

This Agreement requires the Settling Parties to pay to the EPA Hazardous Substance Superfund the principal sum of $50,812 in reimbursement of Past Response Costs, plus an additional sum for interest and will resolve the Settling Parties' alleged civil liability for these costs. The proposed Agreement also includes a covenant not to sue the Settling Parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a).

Dated: October 23, 2001.

James B. Gulliford,

Regional Administrator, Region VII.

[FR Doc. 01–27947 Filed 11–6–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Issuance of Statement of Federal Financial Accounting Standards (SFFAS) No. 22

ACTION: Notice of Issuance of Statement of Federal Financial Accounting Standards (SFFAS) No. 22.

Board Action: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October, 1999, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Standards (SFFAS) No. 22, *Change in Certain Requirements for Reconciling Obligations and Net Cost of Operations Amendments to SFFAS No. 7,* Accounting for Revenue and Other Financing Sources.

The Board approved the Statement in July 2001, and submitted it to FASAB principals for a 90-day review. The review period closed on October 22, 2001.

SFFAS No. 22 Paragraph 80, SFFAS 7, requires, among other things, increases and decreases in receivables from the public related to exchange revenue to be reported as nonbudgetary resources. The Board is deleting, by means of this amendment, the sentence in paragraph 80 that requires such reporting, and making other conformity changes. The effect of this change is that the location of this reconciling item in the statement of financing is no longer specified by the standard.

The standards prescribed in SFFAS No. 22 are effective for periods beginning after September 30, 2000. Hard copies of the statement will be mailed to the FASAB mailing list. It is also available on the FASAB web site at *www.financenet.gov/fasab.htm* or by calling 202–512–7350.

FOR FURTHER INFORMATION, CONTACT: Wendy Comes, Executive Director, 441 G. St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463.

Dated: October 30, 2001.

Wendy M. Comes,

Executive Director.

[FR Doc. 01–27884 Filed 11–6–01; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 10714–034.

Title: Trans-Atlantic American Flag Liner Operators.

Parties: A.P. Moller-Maersk Sealand, American President Lines, Ltd., American Roll-On, Roll-Off Carrier, LLC, Farrell Lines Incorporated, Lykes Lines Limited, LLC, P&O Nedlloyd Limited.

Synopsis: The proposed agreement modification adds Alaska to the geographic scope and limits space chartering among the parties to ad hoc, sporadic, or emergency situations.

Agreement No.: 011375–058.

Title: Trans-Atlantic Conference Agreement.

Parties: Atlantic Container Line, A.P. Moller-Maersk Sealand, Hapag-Lloyd Container Line GmbH, Mediterranean Shipping Company S.A., Nippon Yusen Kaisha, Orient Overseas Container Line Limited, P&O Nedlloyd Limited.

Synopsis: The proposed amendment would authorize the parties to temporarily withdraw up to two vessels per week in the trade between the United States and Europe from late December 2001 to late January or early February 2002 and to redeploy such withdrawn vessels around the first week of March 2002.

By order of the Federal Maritime Commission.

Dated: November 2, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–27956 Filed 11–6–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicant

Notice is hereby given that the following applicant has filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicant should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicant: A.S.L. Shipping Lines Inc. dba American Shipping Line, 2 East Valley Blvd., Suite 200 B, Alhambra, CA 91801, Officer: Michael Duong, President (Qualifying Individual).

Dated: November 2, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–27957 Filed 11–6–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also

includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 3, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Riverside Central Florida Banking Company, Winter Park, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Riverside Bank of Central Florida, Winter Park, Florida (in organization).

Board of Governors of the Federal Reserve System, November 2, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–27973 Filed 11–6–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. R–1115]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has approved the fee schedules for Federal Reserve priced services and electronic connections and a private-sector adjustment factor (PSAF) for 2002 of $150.1 million. These actions were taken in accordance with the requirements of the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.

DATES: The new fee schedules become effective January 2, 2002.

FOR FURTHER INFORMATION CONTACT: For questions regarding the fee schedules: Cynthia Yablon, Financial Services Analyst, Wholesale Payments, (202/452–2046); Joseph Baressi, Financial Services Analyst, ACH Payments, (202/452–3959); Gina Sellitto, Senior Financial Services Analyst, Funds Transfer, Book-Entry Securities, Noncash Collection Services, (202/728–5848); Marybeth Butkus, Senior Financial Services Analyst, Special Cash Services, (202/452–3917); or Wes Horn, Information Technology Project Leader (electronic connections), (202/452–2756), Division of Reserve Bank Operations and Payment Systems. For questions regarding the PSAF: Brenda Richards, Senior Financial Analyst, (202/452–2753) or Gregory Evans, Manager, Financial Accounting, (202/452–3945), Division of Reserve Bank Operations and Payment Systems. For users of Telecommunications Device for the Deaf (TDD) *only,* please contact 202/263–4869. Copies of the 2002 fee schedules for the check service are available from the Board, the Reserve Banks, or the Federal Reserve Banks' financial services web site at *www.frbservices.org.*

SUPPLEMENTARY INFORMATION:

I. Priced Services

A. *Discussion*—Over the period 1991 through 2000, the Reserve Banks recovered 100.8 percent of their total costs for providing priced services, including imputed expenses, special project costs budgeted for recovery, and targeted after-tax profits or return on equity (ROE).[1]

Table 1 summarizes the actual, estimated, and budgeted cost and revenue performance and cost recovery rates for priced services for 2000, 2001, and 2002 respectively. For 2001, the cost recovery rate is currently estimated to be 94.0 percent and for 2002, the cost recovery rate is targeted to be 96.2 percent. The aggregate cost recovery rates are heavily influenced by the performance of the check service, which accounts for approximately 83 percent of the total cost of priced services. The electronic services (FedACH, Fedwire funds transfer and net settlement, and Fedwire book-entry securities transfer) account for approximately 17 percent of costs, while the noncash collection and special cash services represent a de minimis percentage.

TABLE 1.—PRO FORMA COST AND REVENUE PERFORMANCE [A]

[In millions of dollars]

Year	Revenue	Total expense	Net income ROE [1–2]	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1 [b]	2 [c,f]	3	4 [d]	5
2000	922.8	818.2	104.6	98.4	100.7%
2001 (Estimate)	951.6	902.6	48.9	109.3	94.0%
2002 (Budget) [e]	955.9	900.9	55.1	92.5	96.2%

[a] Calculations on this table and subsequent pro forma cost and revenue tables may be affected by rounding.

[b] Includes net income on clearing balances (NICB).

[c] The calculation of total expense on this and subsequent pro forma cost and revenue tables includes operating expenses and imputed costs plus special project costs recovered during the year. Imputed costs include interest on debt, taxes, FDIC insurance, Board of Governors priced services expenses, and the cost of float. Credits for prepaid pension costs under FAS 87 are also included. In 2001, the check service estimates that it will incur $13.1 million in special project costs related to the ongoing check modernization initiative. In 2002, the check service projects that it will incur $11.4 million in special project costs related to check modernization.

[d] Targeted ROE is the pre-tax ROE included in the PSAF, adjusted for taxes. The taxes are included in column 2.

[1] These imputed costs, such as taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, are referred to as the PSAF. The PSAF is based on consolidated financial data for the nation's fifty largest bank and financial holding companies for each of the last five years. The targeted ROE is the budgeted profit that the Federal Reserve would have earned had it been a private business firm. The ten-year recovery rate is based upon the pro forma income statement for Federal Reserve priced services published in the Board's Annual Report. Beginning in 2000, the PSAF included additional financing costs associated with pension assets attributable to priced services. This ten-year cost recovery amount has been retroactively computed as if these costs were not historically included in the PSAF calculations. If such costs were included in the calculations, the ten-year recovery rate would have been 99.5 percent.

[e] Changes in the PSAF and NICB methodology for 2002 reduce both revenue and expenses. As a result, 2002 budgeted revenue is reduced by a loss on NICB of $18.1 million as compared to an NICB related revenue increase of $20.5 million included in the 2001 estimate. Total expenses include PSAF of $150.1 million in the 2002 budget as compared with $206.9 million in the 2001 estimate.

[f] Corporate overhead costs are allocated to Reserve Bank activities on a dollar-ratio basis (based on their proportion of total Reserve Bank costs). Because corporate overhead costs are not closely related to any particular priced service, the priced-services portion of these costs is assigned among the individual services to facilitate the funding of significant multiyear strategic investments that would otherwise result in short-term price fluctuations, subject to established minimum and maximum amounts. In 2000, the assignment of corporate overhead costs to individual priced services supported the Reserve Banks' strategic check modernization project. In 2001 and 2002 the corporate overhead allocation among priced services is on a dollar-ratio basis. Table 1a below shows the assignment of corporate overhead costs for the years 2000–2002.

TABLE 1A.—CORPORATE OVERHEAD ALLOCATIONS TO PRICED SERVICES

[In millions of dollars]

Year	Check	ACH	Funds transfer	Book-entry	Noncash collection	Special cash	Total
2000 Actual	36.0	8.0	4.3	1.1	0.1	0.1	49.7
2001 (Estimate)	43.4	3.4	2.7	1.1	0.1	0.1	50.8
2002 (Budget)	44.6	4.0	3.3	1.2	0.1	0.1	53.4

Table 2 presents an overview of the budgeted 2001, estimated 2001, and projected 2002 cost recovery performance by category of priced service.

TABLE 2.—PRICED SERVICES COST RECOVERY

[In percent]

Priced service	2001 Budget	2001 Estimate	2002 Budget
All services	98.1	94.0 [4]	96.2
Check	97.6	93.3	95.4
ACH	101.3	100.3	101.0
Funds transfer	101.2	98.3	100.8
Book-entry	95.6	87.1	100.2
Noncash collection	102.5	106.7	92.6
Special cash	100.5	104.4	103.8

1. *2001 Estimated Performance*—In 2001, the Reserve Banks estimate that they will recover 94.0 percent of the costs of providing priced services, including imputed expenses, check modernization special project costs, and targeted ROE, compared with a targeted recovery rate of 98.1 percent.[2] Through August 2001, the Reserve Banks recovered 95.6 percent of total priced services expenses, including imputed expenses, check modernization special project costs, and targeted ROE. Although the estimated 2001 recovery rate is below 100 percent, the Reserve Banks estimate that they will fully recover actual and imputed expenses and earn net income of $48.9 million, $60.4 million less than the targeted ROE of $109.3 million. The 2001 shortfall from the 2001 budget target is largely driven by three factors:

• Lower-than-expected performance in the check service is due to both lower revenue and higher expenses than budgeted. Check service revenues will be $9.8 million lower than budgeted due to lower volume growth than budgeted, customers shifting to the use of lower-priced products, and implementation delays of two quality improvement products. Local check costs will be $10.5 million more than budgeted and national support costs allocated to check (excluding check modernization costs) will be $6.9 million more than budgeted; these increased expenses will be partly offset by lower-than-budgeted check modernization costs of $6.0 million.[3] The Reserve Banks also incurred unbudgeted expenses associated with the September 11 terrorist attacks; these totaled approximately $19 million and are primarily float costs resulting from a policy decision to grant funds availability according to published schedules despite the delays in presenting checks due to the shutdown of air traffic. Other costs associated with the September 11 event included expenses related to arrangements for ground transportation and overtime and related expenses.[4]

• The 2001 estimated net income on clearing balances (NICB), an imputed income, is significantly lower than the budgeted amount.[5] For the year, it was originally projected to be $40.7 million, but the estimate has been revised downward to $20.5 million. The decline is the result of a larger difference between the rate at which earnings credits are paid to depository institutions and the imputed earnings rate on clearing balances in 2001 than budgeted.

• The 2001 estimated pension credit, an offset to expenses, is lower than budgeted. It was budgeted at $117.1 million, but the estimate is $101.0 million. The decrease in the estimate is generally due to lower-than-anticipated return on pension plan assets in 2000.

2. *2002 Projected Performance*—For 2002, the Reserve Banks project that they will recover 96.2 percent of total priced services' expense, including imputed expenses and targeted ROE. The 2002 fees for priced services are projected to result in a net income of $55.1 million, compared with a targeted ROE of $92.5 million. Factors affecting

[2] Includes float costs, but excludes higher net income on clearing balances, associated with the events of September 11.

[3] Check modernization is a multi-year initiative to standardize the processing of checks at all Reserve Banks, adopt a common platform for processing and researching check-adjustment cases, create a national system for archiving and retrieving check images, and deliver check services to depository institutions using web technology.

[4] Expenses associated with September 11 may be offset by increased NICB resulting from large excess clearing balances held during the September 11—21 period.

[5] NICB consists of imputed net income on clearing balances, assuming investment of clearing balances in three-month Treasury bills, minus the cost of earnings credits granted to clearing balance holders at the federal funds rate.

2002 cost recovery include the following:

- Net costs of $86.0 million associated with the check modernization project.
- Methodology changes reduce imputed income in NICB and reduce imputed expenses in PSAF.[6]
- In the 2002 budget, the pension credit is about $22 million lower than in 2001 primarily due to the full amortization in 2001 of the initial pension asset as required by generally accepted accounting principles. The amortization of the initial pension asset contributed $15 million a year to the pension credit from 1987 through 2001.

The primary risks to the 2002 projection are the check volume and revenue growth projections, the potential for cost overruns or delays in the check modernization projects, and potential further reductions to NICB and priced pension credits.[7] Additional risks include possible volume declines in the ACH and Fedwire funds transfer services due to increased competition.[8] Although the check service will not achieve full cost recovery in 2001 or 2002, the Reserve Banks believe that they will achieve full cost recovery of the check service over the long run by aggressively managing local and national costs, taking advantage of efficiencies gained from check modernization, and increasing value-added product revenue.

3. *2002 Pricing*—The following summarizes the Reserve Banks' changes in fee structures and levels for priced services:

Check

- Fees for all check products are increasing 3.7 percent compared with current prices or 4.0 percent compared with January 2001 fees. Per-item and cash-letter fees for forward-collection check products are also increasing at this rate.
- Overall prices for electronic products overall are increasing faster than prices for paper check processing because margins for electronic products are currently lower than for paper check products. The increases reflect a Reserve Bank strategy to price these products to more fully reflect their value to customers. Transaction fees for payor bank services, which include electronic check products, will increase 4.5 percent relative to both current prices and January 2001 fees.
- Aggregate check service fee increases in 2002 are expected to cost depository institution customers approximately $30 million, assuming no changes to current customer processing choices.
- Since 1996, the price index for check has increased more than 35 percent.

FedACH

- The Reserve Banks will retain current prices for customers of the FedACH service.[9] The Reserve Banks anticipate a reduction in fees mid-year 2002 as a part of the overall strategy to meet competitive challenges.
- Since 1996, the price index for the ACH service has decreased almost 55 percent.

Fedwire Funds Transfer and Net Settlement

- The Reserve Banks will institute fee reductions to funds transfer customers in all tiers: tier 1—two cent decrease to $0.31 (6.1 percent decrease); tier 2—two cent decrease to $0.22 (8.3 percent decrease); and tier 3—one-cent decrease to $0.15 (6.3 percent decrease).[10]
- Funds transfer fee decreases in 2002 are expected to save depository institution customers approximately $3 million.
- A realignment of net settlement service prices is planned to more accurately reflect costs. The Reserve Banks will institute the following: decrease the settlement entry fee 15.8 percent to $0.80; increase the settlement file fee 16.7 percent to $14.00; increase the off-line settlement statement subject to surcharge 66.7 percent to $25; eliminate the fee for telephone notification; and decrease the daily settlement fee for large-dollar Fedwire-based settlement arrangements 42.9 percent to $100, the same as the fee for small-dollar Fedwire-based settlement arrangements.
- The price index for Fedwire funds transfers and net settlement has declined almost 55 percent since 1996.

Fedwire Book-Entry Securities

- The Reserve Banks will lower the following fees as a result of projected increases in volumes due to the addition of Ginnie Mae securities: decrease the on-line origination and receipt fees by $0.04 to $0.66 (5.7 percent decrease) and decrease the monthly account maintenance fee per issue per account by $0.04 to $0.41 (8.9 percent decrease).
- In the second half of 2002, the Reserve Banks plan to introduce a fee for a new feature of the service—automated claims adjustments related to failed securities transactions, interim accounting for securities with an accrual date different from the record date, and repurchase agreement tracking. The Reserve Banks will introduce a fee for the new product and will determine this fee once volume projections can be confirmed by actual experience. Initially, the Reserve Banks plan to establish a uniform fee for all claims adjustments.
- Book-entry fee decreases in 2002 are expected to save depository institution customers approximately $1.4 million.

[6] The methodology for computing PSAF was modified in October 2001 to include the following changes beginning with the 2002 calculation: clearing balances were made available to finance long-term priced-service assets; equity was imputed to meet the FDIC definition of a well-capitalized institution; target return on equity was determined using the results of three economic models; and the peer group of the fifty largest bank and financial holding companies was selected based on total deposits, rather than assets.

[7] If forward-processed volume were unchanged from the 2001 level, revenue would decline $9.9 million from the budgeted level; if forward-processed volume declined one percent below the 2001 level, revenue would decline $15.5 million. Similarly, payor bank service revenues would decline by $1.7 million and $2.6 million, respectively. If returned check volume were unchanged from the 2001 level, revenue would decline $0.8 million from the budgeted level; if return volume were one percent below the 2001 level, revenue would decline $2.2 million. Savings in operational costs and variable PSAF would partially offset such revenue losses.

[8] In July 2001, pursuant to previously negotiated agreements, the Reserve Banks and private-sector operators (PSOs) implemented new deposit deadlines for ACH transactions that they exchange with each other. On October 1, the Reserve Banks and the PSOs implemented a new fee structure for these interoperator transactions. The new deposit deadlines and interoperator fee structure were intended to enhance competition in the provision of ACH services, which is likely to result in volume shifts from the Reserve Banks to other ACH operators in 2002. Staff believes that the Reserve Banks' ability to successfully recover their ACH costs in 2002 as a result of such volume shifts may be challenging; however, the Reserve Banks believe that they will be able to recover costs over the long run. The competitor to the Fedwire funds transfer service, Clearing House Interbank Payments System (CHIPS), implemented an intraday finality mechanism for its service in January 2001. While there has been little movement of funds transfer volume from Fedwire to CHIPS to date, we understand that some high-volume funds transfer customers have decided to begin shifting substantial funds transfer volume to CHIPS. Fedwire funds transfer volume is expected to decline as customers that are also CHIPS participants move volume from Fedwire to CHIPS.

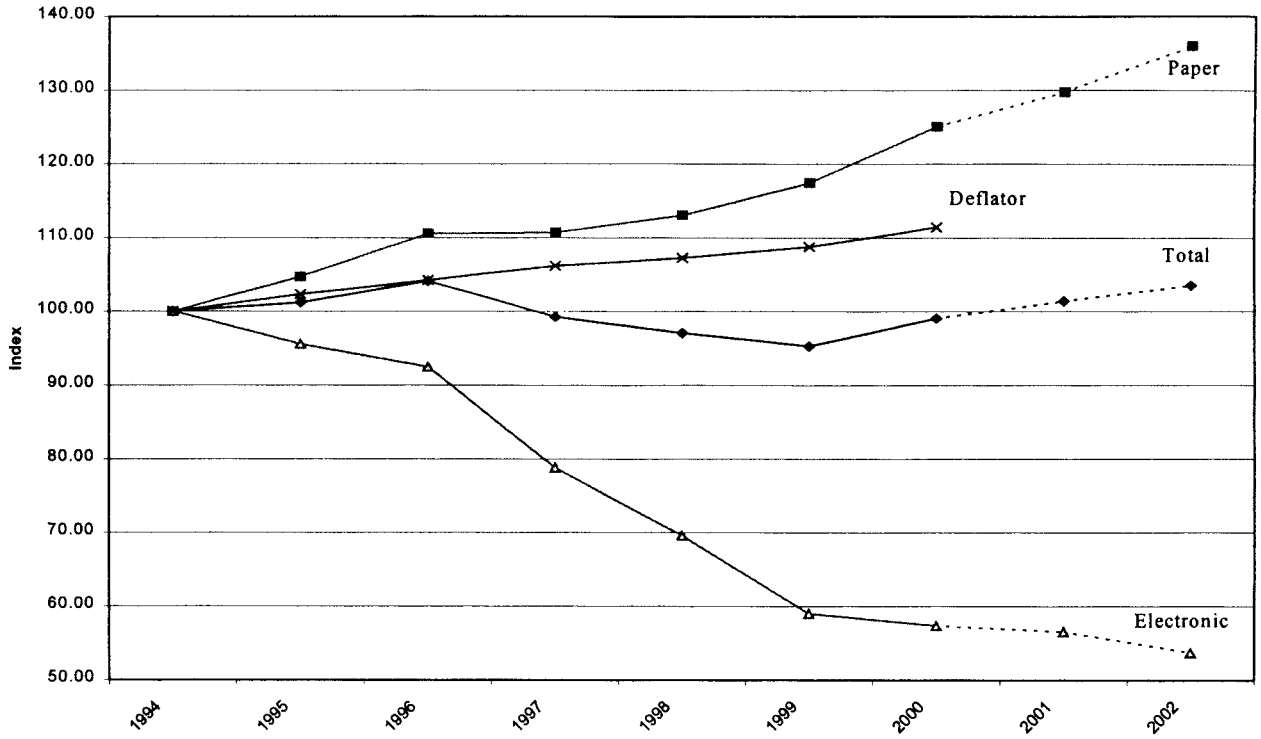
[9] The Reserve Banks modified their fee structure for transactions exchanged with PSOs October 1, 2001. Under the new fee structure, the Reserve Banks and PSOs will charge each other fees for interoperator transactions. Other price changes effective October 1 were a $0.0005 decrease in the per item origination fee for items deposited in large files; a $0.0020 decrease in the per item receipt fee for all items; a single, standard input file processing fee of $5.00 which represents a decrease of $1.75 for large-volume files and an increase of $3.25 for small-volume files; and a new $20.00 per month fee for FedACH settlement.

[10] The Reserve Banks reduced the per transfer fee for tier 3 customers by one-cent to $0.16 on August 1, 2001.

• Including the fee change for 2002, the price index for the book-entry securities service has declined about 30 percent since 1996.

4. *2002 Price Index*—In their 2002 fee schedules, the Reserve Banks include changes that continue to provide an economic incentive for depository institution customers to make greater use of electronic payment services. The price index for electronic payment services (ACH, funds transfer and net settlement, book-entry securities, and electronic check) and electronic connections is projected to decline approximately 5 percent in 2002.[11] In contrast, the index for paper-based payment services (check, special cash, and noncash collection) is expected to increase almost 5 percent in 2002. The overall 2002 price index for all Federal Reserve priced services is projected to increase slightly over 2 percent. Since 1996, the overall price index has increased approximately 3.5 percent.[12] Figure 1 compares the Federal Reserve's price index for priced services with the gross domestic product price deflator, which shows that Federal Reserve priced services have historically increased more slowly than the deflator.

FIGURE 1
FEDERAL RESERVE PAYMENT SERVICES PRICE INDEX
Chained Fisher Ideal Index Compared With GDP Price Deflator



B. *Check*—Table 3 shows the actual 2000, estimated 2001, and projected 2002 cost recovery performance for the check service.

TABLE 3.—CHECK PRO FORMA COST AND REVENUE PERFORMANCE

[In millions of dollars]

Year	Revenue	Total expense	Net income (ROE) [1–2]	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2000	763.3	680.1	83.2	80.8	100.3%

[11] The decline in the price index for electronic payment services since 1996 has reflected, in large part, the ability of the Reserve Banks to capitalize on the operational efficiencies and scale economies inherent in providing payment services through centralized electronic payment processing applications.

[12] These estimates are based on a chained Fisher ideal price index. This index provides customers with a representation of the total price or cost of Reserve Bank services, offering a more complete picture than is possible solely from comparing changes in individual service fees over time. This index is not adjusted for quality changes in Federal Reserve priced services. Data elements used in calculating the index include explicit fee revenue from priced services products and services and electronic connections to the Reserve Banks and volumes associated with those products and services. The price index is calculated using the actual, estimated, or projected full-year revenues and volumes. For 2002, the year-over-year percentage change in the index results from a comparison of the 2002 projections to the 2001 estimates for priced services revenues and volumes. The changes in the price index since 1996 are calculated with 1996–2000 actual, 2001 estimated, and 2002 projected revenues and volumes.

TABLE 3.—CHECK PRO FORMA COST AND REVENUE PERFORMANCE—Continued

[In millions of dollars]

Year	Revenue	Total expense	Net income (ROE) [1–2]	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2001 (Estimate)	788.9	755.4	33.5	90.3	93.3%
2001 (Adjusted Estimate)[a]	788.9	737.0	51.9	90.3	95.4%
2002 (Budget)	807.0	772.1	34.9	73.7	95.4%

[a] Includes float costs, but excludes higher NICB, associated with the events of September 11.

1. *2000 Performance*—The check service recovered 100.3 percent of total costs in 2000, including imputed expenses and targeted ROE, exceeding the targeted recovery rate of 98.7 percent. The volume of checks collected decreased 0.5 percent from 1999 levels, partly because of price increases on the lowest-priced products and stabilization of market volumes as banks that had merged in previous years completed back office operational consolidation and participated in more direct clearing relationships. Revenue grew from 1999 levels because of price increases and increases in forward-processed and payor bank service volumes, but revenue did not meet the budgeted amount. Despite lower-than-expected revenues, full cost recovery was achieved through an even greater level of cost savings, which were primarily the result of local cost reductions and postponed check modernization project costs.

2. *2001 Performance*—Through August 2001, the check service has recovered 94.9 percent of total costs, including imputed expenses and targeted ROE.[13] The Reserve Banks estimate that the check service will recover 93.3 percent of its costs for the full year compared with the budgeted 2001 recovery rate of 97.6 percent, a $36.4 million shortfall, relative to the budget, in after-tax net income. The Reserve Banks expect to recover all direct and indirect costs of providing check services and part of the targeted return on equity. The lower-than-budgeted recovery rate is explained by several factors. First, service revenue and NICB are estimated to be lower than budgeted. The service revenue shortfall results from delayed implementation of explicit quality-related fees for return items, lower-than-expected volume in forward-collection and electronic check products, and customers' use of lower-priced products. Second, costs are estimated to be higher than budgeted because of lower pension credits, somewhat offset by lower-than-budgeted check modernization costs. Third, cost recovery will be lower than budgeted because of expenses associated with the September 11 terrorist attacks. These expenses are primarily float costs resulting from a policy decision to grant funds availability according to published schedules despite the delays in presenting checks to paying banks due to the shutdown of air traffic. Other costs included supplemental ground transportation and overtime.[14]

The volume of checks handled by the Reserve Banks appears to be stabilizing. The volume received from the larger banks has decreased as these banks expand clearinghouse use and as merged banks have consolidated back office operations. Previous years' temporary volume increases following bank mergers, which shifted work to Reserve Banks while check-processing operations were streamlined, are now less of a factor because of fewer bank mergers. These volume declines have been offset by product improvements, which have continued to attract increased forward-collection volume.

Forward-collection check product volume through August 2001 grew 0.7 percent (including a 1.6 percent increase in processed volume and a 9.5 percent decline in fine-sort volume), following the 0.5 percent decline in 2000. For the full-year 2001, the Reserve Banks estimate that forward-processed volume will grow 2.2 percent, which is below the budgeted 4.0 percent growth rate. Because the full-year growth rate exceeds the growth to date, the estimate may be optimistic. Return-item volume has been higher than anticipated and is expected to remain so for the rest of the year. Table 4 summarizes the year-to-date and full-year estimated growth rates for paper check products.

TABLE 4.— PAPER CHECK PRODUCT VOLUME GROWTH RATES

[percent]

	Budgeted 2001 growth	Growth through August 2001	Estimated 2001 growth
Total forward-collection	3.7	0.7	1.6
Forward-processed	4.0	1.6	2.2
Fine-sort[a]	0.6	−9.5	−5.5
Returns	−6.0	1.6	0.9

[a] These rates exclude electronic fine-sort volume. Electronic fine-sort is a service offered by one Reserve Bank that allows depository institutions to exchange fine-sort information electronically among themselves with paper checks to follow. Including the electronic fine-sort product, fine-sort volume growth was budgeted to increase 0.5 percent in 2001 and is now estimated to decrease 5.0 percent.

[13] Total costs include check standardization special project costs of $13.1 million. None of these costs are deferred.

[14] Normally the Reserve Banks recover the cost of float, including float generated when airports close due to inclement weather, through product fees or by adjusting when they grant credit for deposits to reflect their experience collecting funds from paying banks. The expenses associated with September 11 may be offset by increased NICB resulting from large excess clearing balances held during the September 11–21 period. The expenses and imputed NICB associated with the September 11 attack, however, will not be taken into consideration in setting prices for 2002 or future years.

Continuing a trend over the last few years, demand for electronic check products has steadily increased. Reserve Banks provide payor banks with electronic check data or images for about 37 percent of the checks they collect. Year-to-date 2001 demand for image products has grown 19.6 percent to approximately 948 million check images, which represents a penetration rate of 6.2 percent of all checks collected by the Reserve Banks. Growth and penetration rates for electronic check products are summarized in table 5.

TABLE 5.—ELECTRONIC CHECK PRODUCT PENETRATION AND GROWTH RATES

	Penetration rate through August 2001 (percent of checks collected) [a]	Volume growth through August 2001 (percent)	Estimated growth 2001 (percent)
Electronic check presentment	22.4	7.3	6.2
Truncation	5.6	1.5	1.4
Non-truncation	16.8	9.4	7.9
Electronic check information	7.1	−6.9	−8.4
Images	6.2	19.6	19.8

[a] These percentages exclude electronic fine-sort volumes from the number of checks collected.

3. *2002 Pricing*—For the coming year, the Reserve Banks will continue to focus on the check modernization initiatives to standardize check processing across all Reserve Bank offices.[15] The Reserve Banks will incur significant transition costs associated with these initiatives over the next several years. These initiatives are expected to reduce costs and improve service over the long term.

In 2002, fees for all check products are increasing 4.0 percent on a volume-weighted basis compared with fees introduced in January 2001 and 3.7 percent compared with current fees.[16] Per-item and cash-letter fees for forward-collection check products are also increasing at this rate. The average volume-weighted fees for payor bank services will increase 4.5 percent compared with both January 2001 and current fees. The Reserve Banks will increase fees for electronic check information products at a faster rate than for electronic check presentment products (ECP), thereby encouraging depository institutions to increase their use of ECP products. Overall prices for electronic check products are increasing faster than prices for paper check processing because margins for electronic products are currently lower than for paper check products, and the prices of electronic products do not yet reflect their full value to payor banks. Table 6 summarizes the Reserve Banks' 2002 price changes.

TABLE 6.—2002 PRICE CHANGES

[In percent]

Products	2002 vs. January 2001 fees	2002 vs. current fees
Total check service	4.0	3.7
Forward-collection	4.1	3.7
Forward-processed	3.9	3.5
Returns	3.9	3.9
Payor bank services	4.5	4.5
Electronic check presentment	4.5	4.5
Electronic check information	8.9	8.9
Image services	−3.0	−3.0

Table 7 summarizes ranges of key check fees for 2001 and 2002.

TABLE 7.—SELECTED CHECK FEES

	2001 Current price ranges	2002 price ranges
Items:	(per item)	(per item)
Forward-processed		
City	$0.001 to 0.079	$0.001 to 0.079
RCPC	$0.003 to 0.200	$0.003 to **0.300**
Forward fine-sort		
City	$0.003 to 0.021	$0.003 to 0.021
RCPC	$0.003 to 0.036	**$0.004** to 0.036
Qualified returned checks		

[15] Check modernization is a multi-year initiative to standardize the processing and researching check-adjustment cases, create a national system for archiving and retrieving check images, and deliver check services to depository institutions using web technology. Check modernization should improve the operational efficiency and cost-effectiveness of the Reserve Banks' check services over the long run. It will also improve the consistency, quality, and uniformity of the check services that Reserve Banks deliver to their customers and allow new services to be developed and deployed more quickly.

[16] This discussion evaluates volume-weighted changes in the direct fees for check products. The price index, discussed in the cover memorandum, evaluates the average change in costs that would be incurred by a customer purchasing an average market basket of Federal Reserve check products, taking into account explicit fees and product substitution.

TABLE 7.—SELECTED CHECK FEES—Continued

	2001 Current price ranges	2002 price ranges
City	$0.08 to 0.85	$0.08 to 0.85
RCPC	$0.10 to 1.15	$0.10 to 1.15
Raw returned checks		
City	$1.05 to 5.00	$1.05 to 5.00
RCPC	$1.05 to 5.00	$1.05 to 5.00
Cash letters:	(per cash letter)	(per cash letter)
Forward-processed [a]	$2.00 to 32.00	**$2.25 to 36.00**
Forward fine-sort	$3.00 to 14.00	**$3.50 to 14.00**
Returned checks: raw/qualified	$2.00 to 14.00	$2.00 to **14.50**
Payor bank services:	(Fixed) (per item)	(Fixed) (per item)
MICR information	$2–15 $0.0020–0.0070	$2–15 **$0.0030–0.0110**
Electronic presentment	$1–11 $0.0005–0.0100	$1–**12** $0.0005–0.0100
Truncation	$2–7 $0.0020–0.0180	$2–7 **$0.0040**–0.0180
Image capture	$2–15 $0.0020–0.02	$2–15 $0.002–0.02
Image delivery	Varies [b] $0.001–0.008	Varies [b] **$0.002**–0.008
Image archive	N/A $0.001–0.01	N/A $0.001–0.01
Image retrieval	N/A $0.3–5	N/A $0.3–5

Note: Bold indicates change from 2001 prices.

[a] Cash letter fees for forward-processed items transported on Check Relay for 2001 and 2002 include a fifty-cent surcharge due to higher fuel costs.

[b] Fixed fee varies by media type.

4. *2002 Projected Cost Recovery*—For 2002, the Reserve Banks project that the check service will recover 95.4 percent of total costs, including imputed expenses, costs associated with the check modernization project, and targeted ROE. In total, the Reserve Banks expect to recover all direct and indirect costs of providing check services, but only a portion of targeted return on equity; thus net income is expected to fall short of the targeted ROE.

Total expenses are projected to increase approximately $17.0 million, or 2.3 percent, from estimated 2001 expenses. Total expenses for 2002 include approximately $86 million in costs for the four check modernization projects (including special project costs), representing an increase of $17.6 million over the 2001 estimate.

Check service revenue is projected to increase $50.2 million, or 6.5 percent, from the 2001 estimate, as a result of fee and volume increases, including a budgeted 1.5 percent increase in forward-collection volume from the estimated 2001 level. In 2002, revenues from forward-collection and return-item processing, payor bank services and other operating and imputed revenues are expected to represent 87.6 percent, 11.6 percent, and 0.8 percent, respectively, of the check services' budgeted $821.7 million in product related service revenue. Total revenue also reflects the decline in NICB, discussed previously.

In 2002, forward-processed volume is projected to be 15.6 billion, an increase of 1.8 percent compared with the 2001 estimate, with the growth coming from additional weekend and off-peak Other Fed volume. Fine-sort volumes are expected to continue to decline 16 million, or 1.3 percent, from the 2001 estimate. Total returns are projected to be 179.8 million, an increase of 0.6 percent compared with the 2001 estimate.

The Reserve Banks anticipate further growth in payor bank services. The Reserve Banks project electronic presentment volume to be 3.2 billion, reflecting growth of 16.7 percent in 2002, and truncation volume to be 978 million, an increase of 6.8 percent—significant increases in growth targets compared with 2001 growth. The Reserve Banks expect to meet these targets as a result of price changes that will raise electronic information fees compared with electronic presentment fees and through the launching of a national image service, which will provide additional tools for banks accepting electronic check presentments. Image services volume is projected to be 1.8 billion, a projected growth of 19.7 percent in 2002, which is in line with 2001 growth and which may be driven by the increased functionality of the Image Services System (for example, electronic access to archived check images using web technology). MICR information is projected to decrease by 0.3 billion items or about 25 percent in 2002, which is in line with the 2001 decline.

The Board believes that the greatest risks to achieving the projected cost recovery rate for the check service of 95.4 percent are (1) challenges in meeting Systemwide volume projections and related revenue projections, (2) potential changes in NICB and priced pension credits, and (3) potential check modernization cost overruns. The results of changes to elements of NICB and delays in the timing of the check modernization project could also improve the 2002 cost recovery.

C. *Automated Clearinghouse (ACH)*—Table 8 presents the actual 2000, estimated 2001, and projected 2002 cost recovery performance for the commercial ACH service.

TABLE 8.—ACH PRO FORMA COST AND REVENUE PERFORMANCE

[In millions of dollars]

Year	Revenue	Total expense	Net income (ROE) [1–2]	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2000	71.7	61.6	10.1	8.0	103.1%

TABLE 8.—ACH PRO FORMA COST AND REVENUE PERFORMANCE—Continued

[In millions of dollars]

Year	Revenue	Total expense	Net income (ROE) [1–2]	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2001 (Estimate)	76.4	67.3	9.1	8.9	100.3%
2002 (Budget)	66.4	59.3	7.1	6.5	101.0%

1. *2000 Performance*—In 2000, the ACH service recovered 103.1 percent of total expenses, including imputed costs and targeted ROE, versus a targeted recovery rate of 100.0 percent. Commercial ACH volume was 13.6 percent higher than 1999 volume, compared with the 11.6 percent increase originally projected for 2000. The Reserve Banks' prices did not change over the course of the year.

2. *2001 Performance*—Through August 2001, the ACH service recovered 101.6 percent of total expenses. The Reserve Banks estimate that the ACH service will recover 100.3 percent of total expenses in 2001, compared with the targeted recovery rate of 101.3 percent. The variance from targeted recovery is partially due to lower-than-expected NICB and pension credits. The year-over-year increase in expense from $61.6 million in 2000 to $67.3 million in 2001 is attributable to higher national support costs, and to transition costs associated with consolidating the twelve Districts' ACH operations into two offices, Minneapolis and Atlanta.

The Reserve Banks estimate that their 2001 commercial ACH volume will be 11.1 percent higher than in 2000, compared with the budgeted 10.0 percent increase. Through August 2001, by contrast, the Reserve Banks' commercial ACH volume had increased 17.2 percent from the same period in 2000. The difference between the volume growth through August and the volume growth for all of 2001 is due to the Reserve Banks' expectation that some large-volume customers will begin to originate their ACH transactions through a private-sector ACH operator. The Reserve Banks also expect that other large-volume customers may split their transactions between the Federal Reserve and other ACH operators.

On October 1, 2001, the Reserve Banks implemented a modified ACH fee structure with decreased per-item fees for large-volume files and increased monthly fixed fees that will likely result in lower overall fees to large and medium-sized customers. These fee-structure modifications are the first phase of an overall strategy to meet competitive challenges facing the Reserve Banks' ACH service. The modified fee structure is designed to better reflect the ACH service's cost structure, which is characterized by high fixed and low variable costs.

Also on October 1, the Reserve Banks implemented pricing agreements with other operators for interoperator ACH transactions. Under the new interoperator agreements, the Reserve Banks will no longer charge per-item fees to depository institutions for ACH transactions that the depository institutions originate or receive through another operator. Instead, the Reserve Banks and the other operators will charge each other fees for the interoperator transactions. Thus, for ACH items originated by a Reserve Bank customer and destined for the customer of a private-sector operator, the Reserve Banks will pay a fee to the private-sector operator and will no longer receive fees from the receiving depository institution.

3. *2002 Pricing*—The Reserve Banks project that the ACH service will recover 101.0 percent of its costs in 2002, including imputed expenses and targeted ROE. Expenses are projected to decrease $8.0 million, or 11.9 percent, from the 2001 estimate. The decrease in expense results primarily from consolidating ACH operations, which should be completed in February 2002, and from the Reserve Banks' reduction of ACH business development costs.

The Reserve Banks project that 2002 ACH revenue will decrease $10.0 million, or 13.1 percent, from the 2001 estimate due to decreases in fees and expected transaction volume. In addition to the October 1, 2001 pricing structure changes, the Reserve Banks expect to further reduce fees in mid-year 2002. Although the Reserve Banks have not finalized the details of the mid-year 2002 fee changes, the Reserve Banks expect to offer volume-based discounts to their ACH transaction fees.

The Reserve Banks project that ACH volume will be 5.1 percent lower in 2002 than in 2001. While the Reserve Banks expect total ACH volume to grow substantially, the projected 5.1 percent decline in Federal Reserve ACH volume assumes many of the Reserve Banks' largest customers' shifting at least a portion of their volume to another operator. The Board believes there is some risk that transaction volume will decline more than projected.

D. *Funds Transfer and Net Settlement*—Table 9 presents the actual 2000, estimated 2001, and projected 2002 cost recovery performance for the funds transfer and net settlement services.

TABLE 9.—FUNDS TRANSFER AND NET SETTLEMENT PRO FORMA COST AND REVENUE PERFORMANCE

[In millions of dollars]

Year	Revenue	Total expense	Net incomc (ROE) [1–2]	Targe ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2000	64.6	56.4	8.2	7.5	101.1%
2001 (Estimate)	63.0	56.7	6.3	7.5	98.3%
2002 (Budget)	56.1	50.2	5.9	5.5	100.8%

1. *2000 Performance*—The funds transfer and net settlement service recovered 101.1 percent of total costs in 2000, including imputed expenses and targeted ROE, and exceeding the targeted recovery rate of 100.4 percent. Although expenses for 2000 were $1.7 million (2.5 percent) less-than-original budget projections, service revenue was $1.4 million (2.2 percent) less-than-original budget projections. The shortfall in service revenue was attributed to $0.8 million (8.7 percent) less-than-expected electronic connection revenue and 1.2 percent lower-than-expected funds transfer volume.

2. *2001 Performance*—Through August 2001, the funds transfer and net settlement services recovered 99.5 percent of total costs, including imputed expenses and targeted ROE. For full-year 2001, the Reserve Banks estimate that the funds transfer and net settlement services will recover 98.3 percent of total expenses, compared with a targeted recovery rate of 101.2 percent. The underrecovery is attributed to several factors, including lower-than-expected NICB and pension credit, and higher-than-budgeted operating costs, which were primarily due to higher-than-anticipated automation costs.

Funds transfer volume through August 2001 has increased 4.5 percent relative to the same period in 2000. For the full-year, the Reserve Banks estimate a 3.0 percent volume increase over 2000 compared to a budgeted decline of 1.2 percent. The Reserve Banks anticipated a decline in funds volume in 2001 because of potential shifts in volume from Fedwire to CHIPS.[17] These shifts, however, have not been realized fully to date, but the Reserve Banks expect some shifts in volume to CHIPS during the remaining months of the year.

3. *2002 Fedwire Funds Transfer Pricing*—The Reserve Banks will maintain the thresholds for volume-based discounts but reducing the per-transfer fees for each threshold. Specifically, the Reserve Banks will lower the transfer fee for the first volume tier (≤2,500 transfers per month) by two cents from $0.33 to $0.31 (6.1 percent), lower the transfer fee for the second volume tier (2,501–80,000 transfers per month) by two cents from $0.24 to $0.22 (8.3 percent), and lower the transfer fee for the third volume tier (> 80,000 transfers per month) by one cent from $0.16 to $0.15 (6.3 percent).[18] The average (volume-weighted) per-transfer price would decline from its current level of $0.216 to $0.201 (6.8 percent). In addition, the Reserve Banks will retain the off-line surcharge at its current level.

Reserve Banks project that the Fedwire funds transfer service will recover 100.8 percent of total costs in 2002, including imputed expenses and targeted ROE. Total costs are expected to decline $8.5 million (13.2 percent) from the 2001 estimate, primarily due to operating cost reductions of $4.9 million (8.5 percent). The reduction in operating costs is due to cost savings associated with the consolidation of the majority of funds transfer activities to the Federal Reserve Banks of Boston, New York, Richmond, and Kansas City.[19]

Funds transfer volume is expected to decline 1.1 percent from the 2001 estimate as customers that are also CHIPS participants move volume from Fedwire to CHIPS. Since the implementation of volume-based pricing, volume growth in the high-volume pricing tier (tier 3) has outpaced growth in the other two tiers. In 2002, however, the Reserve Banks project that any trend growth in tier 3 volume will be offset by the migration of transfers to CHIPS. The Reserve Banks also expect that the loss of volume in tier 3 will be somewhat offset by movement of volume from the mid-volume pricing tier (tier 2) to tier 3 due to merger activity and the consolidation of master/sub-account relationships. Therefore, the Reserve Banks project that in 2002 tier 3 volume will remain relatively stable at 48.8 percent of total volume and tier 2 volume will decline by 0.7 percent to 33.9 percent of total volume. The Reserve Banks also project that volume in the low-volume pricing tier (tier 1) will increase 0.5 percent to 17.3 percent of total volume.

The Reserve Banks project total funds transfer revenue to decline by $6.9 million (11.0 percent) in 2002 from the 2001 estimate primarily because of the full-year effect of the August 2001 and proposed 2002 price reductions.

4. *2002 Net Settlement Pricing*—By year-end 2001, all local net settlement arrangements will have been converted to the enhanced net settlement service. The Reserve Banks will increase the per settlement file fee by $2.00 from $12.00 to $14.00 (16.7 percent) and reduce the per-settlement entry fee by $0.15 from $0.95 to $0.80 (15.8 percent); these changes will lower the costs for the larger arrangements while only marginally increasing the costs for a few of the smaller arrangements. The revenue loss is minimal—a net of $10,000 or 1.4 percent of the previous fee level. The Reserve Banks will eliminate the off-line notification service and associated surcharge in 2002. In addition, the Reserve Banks will raise the off-line origination surcharge by $10.00 from $15.00 to $25.00 (66.7 percent) to better reflect the work involved in providing this service; budgeted revenue, however, will not be affected because this service is only offered as a contingency to the arrangements.[20] Further, the Reserve Banks will standardize the fee for all Fedwire-based settlements at $100. Previously, small arrangements were charged $100 and large arrangements were charged $175. There will be no effect on revenue because the only arrangement that was being charged $175 made changes early in 2001 to its file structure to fit the criteria for the $100 fee. Finally, the Reserve Banks will retain the $60 minimum account maintenance fee per arrangement.[21] The Reserve Banks expect settlement entry and file volumes to remain stable in 2002 compared with the 2001 estimate.

E. *Book-Entry Securities*—Book-entry securities includes purchase and sale activity. Table 10 presents the actual 2000, estimated 2001, and projected 2002 cost recovery performance for the book-entry securities service.[22]

[17] The New York Clearing House implemented an intraday finality mechanism for its CHIPS service in January 2001. While there has been little movement of funds transfer volume from Fedwire to CHIPS to date, the New York Clearing House has increased its marketing efforts and we understand that some high-volume funds transfer customers have decided to begin shifting substantial funds transfer volume to CHIPS. Fedwire funds transfer volume is expected to decline as customers that are also CHIPS participants move volume from Fedwire to CHIPS.

[18] The Reserve Banks reduced the per transfer fee for the highest-volume tier (tier 3) from $0.17 to $0.16 on August 1, 2001.

[19] Specifically, the Reserve Banks will consolidate on-line funds operations to the Federal Reserve Banks of Boston and Kansas City, and fund computer interface testing to the Central Business Administration Function at the Federal Reserve Banks of New York and Richmond. The consolidation began in September 2001 and will be completed in August 2002.

[20] While the Reserve Banks encourage net settlement arrangements to maintain their own contingency procedures, they will provide off-line contingency services in the event of the failure of an arrangement's primary contingency backup arrangement.

[21] The monthly account maintenance fee will only be assessed if total settlement charges during a calendar month are less than $60.00. In addition, the fee will be reduced by the total amount of any per entry and per settlement charges incurred during the month.

[22] The Reserve Banks provide securities transfer services for securities issued by the U.S. Treasury Department, federal government agencies, government-sponsored enterprises, and certain international institutions. The priced component of this service, reflected in this memorandum, consists of revenues, expenses, and volumes associated with the transfer of all non-Treasury securities. For Treasury securities, the Treasury Department assesses fees for the securities transfer component of the service. The Reserve Banks assess a fee for the money settlement component of a Treasury

TABLE 10.—BOOK-ENTRY SECURITIES TRANSFER PRO FORMA COST AND REVENUE PERFORMANCE

In millions of dollars

Year	Revenue	Total expense	Net income (ROE) [1–2]	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2000	18.5	16.0	2.6	1.9	103.9%
2001 (Estimate)	19.0	19.5	-0.5	2.3	87.1%
2002 (Budget)	22.6	20.3	2.3	2.2	100.2%

1. *2000 Performance*—The book-entry securities service recovered 103.9 percent of total costs in 2000, including imputed expenses and targeted ROE, exceeding the target recovery rate of 101.3 percent. Total costs for 2000 were $1.1 million (6.6 percent) higher than budgeted, and service revenue was approximately $1.5 million (9.0 percent) more than budgeted. The additional revenue was due to higher-than-expected on-line volume and account and issue maintenance volume. Total book-entry transfer volume increased 15.2 percent from the 1999 level.

2. *2001 Performance*—Through August 2001, the book-entry securities service recovered 90.0 percent of total costs, including imputed expenses and targeted ROE. For full-year 2001, the Reserve Banks estimate that the book-entry securities service will recover 87.1 percent of total costs, compared with a targeted recovery rate of 95.6 percent. The underrecovery is attributed to several factors, including higher-than-budgeted operating costs, mostly due to higher-than-anticipated automation costs and higher-than-anticipated volume, and a less-than-expected pension credit. In addition, NICB is lower than budgeted and the book-entry service is projected to take in less revenue due to the delay of the conversion of Government National Mortgage Association (Ginnie Mae) securities to the National Book-Entry System (NBES), which was planned for the fourth quarter 2001, but, because of the events of September 11, will be delayed until the first quarter 2002.

Through August 2001, total book-entry securities transfer volume has increased 19.6 percent compared with the same period in 2000. For the full year, the Reserve Banks estimate that total book-entry volume will increase 15.4 percent from the 2000 level, compared with a budgeted 8.7 percent increase. The increased volume is primarily due to higher-than-anticipated mortgage refinancing activity, but the Reserve Banks expect this activity to slow down in the remaining months of the year.

3. *2002 Pricing*—The Reserve Banks will reduce the on-line transfer origination and receipt fee by four cents from $0.70 to $0.66 (5.7 percent), and lower the per-issue per-account maintenance fee by four cents from $0.45 to $0.41 (8.9 percent). The Reserve Banks will retain the off-line surcharge and account maintenance fee at their current levels. The Reserve Banks will implement new functionality to support automated claim adjustments related to failed securities transactions, interim accounting for securities with an accrual date different than the record date, and repurchase agreement tracking.[23] The Reserve Banks will implement fail tracking in December 2001, but have not yet announced the implementation dates for interim-accounting adjustment processing and repurchase agreement tracking. The Reserve Banks will determine a fee for the new functionality once volume projections can be confirmed by actual experience, and plan to implement this fee in the second half of 2002. Initially, the Reserve Banks plan to establish a uniform fee for all claims adjustments.

The purchase and sale activity represents less than 0.5 percent of the costs and revenues of the book-entry securities service line. Provision of this activity, which facilitates the purchase and sale of Treasury and government agency securities by depository institutions on the secondary market, is consolidated at the Federal Reserve Bank of Chicago. Steadily declining volume over the past six years strongly suggests there is no longer a need for the Federal Reserve Banks to provide this activity and private-sector alternatives exist. The Reserve Banks' Wholesale Payments Product Office (WPPO) will develop an exit strategy for the product by year-end 2001. In the interim, the Reserve Banks will maintain the $40 transaction fee for securities purchases and sales.

The Reserve Banks project that the book-entry securities service will recover 100.2 percent of costs in 2002, including imputed expenses and targeted ROE. The Reserve Banks project that total costs for the service will increase 3.1 percent—a $0.4 million decrease in the pension credit combined with a $0.9 million increase in costs associated with the agency portion of the service will be partially offset by $0.9 million costs savings associated with the consolidation of the majority of securities activities to the Federal Reserve Banks of Boston, New York, and Kansas City.[24]

The Reserve Banks project the volume of agency securities transfers in 2002 will increase 19.8 percent from the 2001 estimate and total revenue will increase 18.7 percent from the 2001 estimate. The volume increase is due to the scheduled move of Ginnie Mae securities to NBES by March 2002. The influx of more than 325,000 Ginnie Mae securities also will dramatically increase the number of securities issues held in customers' securities accounts; the number of issues maintained is projected to nearly double. Additional securities issues from the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Veterans Administration will also move to the service in 2002, albeit in much smaller numbers, as the securities processing system of the former Participants Trust Company is retired.

securities transfer; this component is not treated as a priced service.

[23] 23 Initially, the new functionality will be available only for mortgage-backed securities, while functionality for Treasury securities and other agency debt may be incorporated later.

[24] Specifically, the Reserve Banks will consolidate on-line securities operations at the Federal Reserve Banks of Boston and Kansas City, joint custody collateral processing at the Federal Reserve Bank of Boston, and securities computer interface testing at the Central Business Administration Function at the Federal Reserve Bank of New York. Theconsolidation began in September 2001 and will be completed in August 2002.

F. Noncash Collection—Table 11 lists the actual 2000, estimated 2001, and projected 2002 cost recovery performance for the noncash collection service.

TABLE 11.—NONCASH COLLECTION PRO FORMA COST AND REVENUE PERFORMANCE

[In millions of dollars]

Year	Revenue	Total expense	Net income (ROE) [1–2]	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2000	2.4	2.1	0.4	0.2	108.6%
2001 (Estimate)	2.0	1.7	0.3	0.2	106.7%
2002 (Budget)	1.5	1.4	0.0	0.1	92.6%

1. *2000 Performance*—The noncash collection service recovered 108.6 percent of total expenses in 2000, including imputed expenses and targeted ROE, slightly exceeding the targeted recovery rate of 108.1 percent. Volume for 2000 declined 15.3 percent from 1999 levels, compared with a budgeted decline of 29.3 percent, and revenue declined 20.1 percent from 1999 levels, compared with a budgeted decline of 31.6 percent. Total costs for 2000 increased 3.6 percent over 1999 levels, compared with an 11.3 percent budgeted decline. The increase was primarily due to additional costs associated with the purchase of computer equipment.

2. *2001 Performance*—Through August 2001, the noncash collection service recovered 118.1 percent of its costs. For full-year 2001, the Reserve Banks estimate that the noncash collection service will recover 106.7 percent of costs, including imputed expenses and targeted ROE, compared with the targeted recovery rate of 102.5 percent. Through August, volume declined 20.2 percent compared with the same period in 2000. The Reserve Banks estimate that full-year 2001 volume and revenue will decrease 20.8 percent and 18.6 percent, respectively, from the 2000 levels; these estimates are consistent with the budgeted decline. In addition, the Reserve Banks anticipate that full-year total costs will decrease 17.3 percent from 2000 levels, compared with a 12.4 percent budgeted decline.

3. *2002 Pricing*—The Reserve Banks will retain all fees in 2002 at their current levels. The Reserve Banks project that the noncash collection service will recover 92.6 percent of total costs, including imputed expenses and targeted ROE, in 2002. The underrecovery is the result of continuing volume decline within the service. The Reserve Banks project a volume decline of 22.8 percent in 2002, from the 2001 estimate, resulting in a revenue decline of $0.5 million (25.6 percent). The Reserve Banks project that total costs will decline $0.3 million (14.3 percent) in 2002 compared with the 2001 estimate.

New issues of bearer municipal securities effectively ceased in 1983 when the Tax Equity and Fiscal Responsibility Act of 1982 removed the tax advantage for investors. Volume decline will continue as the number of outstanding physical securities diminishes and other service providers compete for the remaining coupon redemption and bond-collection activity.

G. *Special Cash*—Priced special cash services represent a very small portion (less than one percent) of overall cash services provided by the Reserve Banks to depository institutions. Special cash services include providing wrapped coin, packaging nonstandard currency orders and deposits, and making registered mail shipments of currency and coin. Table 12 presents the actual 2000, estimated 2001, and projected 2002 cost recovery performance for special cash services.

TABLE 12.—SPECIAL CASH PRO FORMA COST AND REVENUE PERFORMANCE

[In millions of dollars]

Year	Revenue	Total expense	Net income (ROE) (1–2)	Target ROE	Recovery rate after target ROE [1/(2+4)]
	1	2	3	4	5
2000	2.2	2.2	0.1	0.1	98.8
2001 (Estimate)	2.2	2.1	0.2	0.1	104.4
2002 (Budget)	2.3	2.2	0.2	0.1	103.8

1. *2000 Performance*—In 2000, special cash services recovered 98.8 percent of total expenses, including imputed expenses and targeted ROE, compared with a targeted recovery rate of 101.7 percent. This underrecovery was due primarily to the increase in the costs associated with the registered mail service in Kansas City.

2. *2001 Performance*—Through August 2001, special cash services recovered 103.7 percent of total expenses, including imputed expenses and targeted ROE. For full-year 2001, the Reserve Banks estimate that special cash services will recover 104.4 percent of total expenses compared with a targeted recovery rate of 100.5 percent. The overrecovery is primarily due to higher-than-anticipated volumes of nonstandard packages in Chicago along with mid-year price increases for coin wrapping and registered-mail services in Helena. The additional revenue is offset slightly by the discontinuation of nonstandard packaging in El Paso and registered mail services in Boston.

3. *2002 Pricing*—For 2002, the Reserve Banks project that special cash services will recover 103.8 percent of costs, including imputed expenses and targeted ROE. Total costs are projected to increase $0.1 million or 6.2 percent from the 2001 level, and revenue is expected to increase $0.1 million or 5.5 percent from the 2001 level. The anticipated cost increase is due to an increase in direct and support costs associated with the Kansas City registered mail service; the anticipated revenue increase is due to the full-year effect of the mid-year repricing for coin wrapping and registered mail in Helena and the increase in the registered mail surcharge in the Tenth District.

Beginning in January 2002, the Tenth District will increase the insurance fee from $0.32 to $0.45 and increase the surcharge for registered mail from $16 to $24. The increase in the insurance fees will offset an increase in registered mail insurance costs, and the increase in the registered mail surcharge reflects higher projected costs to manage insurance issues for this service. The Tenth District expects registered mail volume to decrease approximately 12 percent because of an active campaign to encourage the use of armored-carrier service.

II. Private-Sector Adjustment Factor

A. *Background*—Each year, as required by the Monetary Control Act of 1980, the Reserve Banks set fees for priced services provided to depository institutions. These fees are set to recover all direct and indirect costs and imputed costs, including financing costs, return on equity (profit), taxes, and certain other expenses that would have been incurred if a private business firm provided the services. These imputed costs are based on data developed in part from a model comprising consolidated financial data for the nation's fifty largest bank holding companies (BHCs). The imputed costs and imputed profit are collectively referred to as the PSAF. In a comparable fashion, investment income is imputed and netted with related direct costs associated with clearing balances to estimate net income on clearing balances (NICB).

The Board approved the following method changes, which are incorporated in the 2002 PSAF and NICB calculations:

- A portion of clearing balances is used as a funding source for priced services assets. Long-term assets are partially funded from an initial core amount of $4 billion clearing balances.[25] The new method requires an analysis of interest rate risk sensitivity, which compares rate-sensitive assets with rate-sensitive liabilities and measures the effect on cost recovery of a change in interest rates of up to 200 basis points.
- Equity is imputed at 5 percent of total assets in order to meet the FDIC definition of a well-capitalized institution in its classification for assessing insurance premiums.
- The pre-tax return on equity (ROE) is determined using the results of the comparable accounting earnings model (CAE), the discounted cash-flow model (DCF), and the capital asset pricing model (CAPM). Within the CAPM and DCF models, the ROE is weighted based on market capitalization, and within the CAE model, the ROE calculation is equally weighted. The results of the three models are averaged to impute the PSAF pre-tax ROE.
- The peer group of the fifty largest bank holding companies is selected based on total deposits.

The new method reduces both the amount of imputed debt and its associated costs included in the PSAF and the imputed investments and related income included in the NICB. Following is a description of the PSAF and NICB calculations:

1. *Private Sector Adjustment Factor*—The method for calculating the financing and equity costs in the PSAF requires determining the appropriate levels of debt and equity to impute and applying the applicable financing rates. This requires developing a pro forma priced services balance sheet using actual Reserve Bank assets and liabilities associated with priced services and imputing the remaining elements that would exist if the Reserve Banks' priced services were provided by a private sector business firm.

The amount of the Reserve Banks' assets that will be used to provide priced services during the coming year is determined using Reserve Bank information on actual assets and projected disposals and acquisitions. The priced portion of mixed-use assets is determined based on the allocation of the related depreciation expense. The priced portion of actual Reserve Bank liabilities consists of balances held by Reserve Banks for clearing priced services transactions (clearing balances), estimated based on historical data, and other liabilities such as accounts payable and accrued expenses.

Short-term debt is imputed only when non-core clearing balances and short-term liabilities are not sufficient to fund short-term assets. Long-term debt is imputed only when core clearing balances and long-term liabilities are not sufficient to fund long-term assets or if the interest rate risk sensitivity analysis indicates that estimated risk will exceed a change in cost recovery of more than two percentage points. Equity is imputed to meet regulatory requirements for a well-capitalized institution, which is currently 5 percent of total assets and 10 percent of risk-weighted assets.

a. *Financing rates*—When needed to impute short- and long-term debt, the debt rates are derived based on these elements in the BHC model. Equity financing rates are based on the average of the return on equity (ROE) results of three economic models using data from the BHC model.

For simplicity, given that federal corporate tax rates are graduated, state tax rates vary, and various credits and deductions can apply, a specific tax rate is not calculated for Reserve Bank priced services. Instead, the use of a pre-tax ROE captures imputed taxes. The resulting ROE influences the dollar level of the PSAF and Federal Reserve price levels because this is the return a shareholder would expect in order to invest in a private business firm. The use of the pre-tax return on equity assumes 100 percent recovery of expenses, including the targeted return on equity. The recommended PSAF is, therefore, based on a precise matching of revenues and actual and imputed costs. Should the pre-tax earnings be greater or less than the targeted ROE, the PSAF is adjusted for the tax expense or savings associated with the adjusted recovery. The imputed tax rate is the median of the rates paid by the BHCs over the past five years adjusted to the extent that BHCs are invested in municipal bonds.

b. *Other Costs*—The PSAF also includes the estimated priced services expenses of the Board of Governors and imputed sales taxes based on Reserve Bank expenses. An assessment for FDIC insurance, when required, is imputed based on current FDIC rates and projected clearing balances held with the Federal Reserve.

2. *Net Income on Clearing Balances*—The NICB calculation is made each year along with the PSAF calculation and is based on the assumption that Reserve Banks invest clearing balances net of balances used to finance priced-services assets and imputed reserves. Based on

[25] Core clearing balances are considered the portion of the balances that have remained stable over time without regard to the magnitude of actual clearing balances. The remainder of the balances is considered non-core clearing balances and shore term in duration.

these net clearing balance levels, Reserve Banks impute an equal investment in three-month Treasury bills. The calculation also involves determining the actual priced services cost of earnings credits (amounts available to offset future service fees) on contracted clearing balances held, net of expired earnings credits, based on the federal funds rate. The rates and clearing balance levels used in the NICB estimate are based on the actual rates and balances from the six months before the calculation date. Because clearing balances are held for clearing priced services transactions, they are directly related to priced services. Therefore, the net earnings or expense attributed to the imputed Treasury-bill investments and the cost associated with holding clearing balances are considered income for priced services activities.

B. *Discussion*—The decrease in the 2002 PSAF is primarily due to the recent method changes. Because core clearing balances, rather than imputed debt, are funding long-term priced services assets, there is a decline in PSAF expenses associated with debt financing. In addition, a reduction in required imputed equity results in a reduction of equity costs. The decline in debt financing expenses and equity costs in the PSAF is offset by a reduction in imputed Treasury-bill investment earnings in the NICB.

1. *Asset Base*—The total estimated cost of Federal Reserve assets to be used in providing priced services is reflected in table 13. While total priced services assets have decreased, the pension asset and other assets financed through the PSAF including premises, receivables, and prepaid expenses have increased. Table 14 shows that the short-term assets funded with short-term payables and non-core clearing balances total $113.3 million. This amount represents an increase of $9 million, or 8.6 percent, from the short-term assets funded in 2001. Long-term assets funded with long-term liabilities, core clearing balances, and equity are projected to total $1,479.3 million. This amount represents an increase of $83.9 million, or 6 percent, from the long-term assets funded in 2001. Growth of $81.6 million in the pension asset explains the majority of the increase, while increases in Board and Reserve Bank building assets explain an additional $13.6 million. These increases are offset by a decrease of $11.3 million in other Reserve Bank fixed assets.

2. *Debt and Equity Costs and Taxes*—As previously mentioned, core clearing balances from the NICB calculation are available as a funding source for priced services assets. Table 14 shows that $633.0 million in clearing balances are used to fund priced services assets in 2002. The interest rate sensitivity analysis in table 15 indicates that potential T-bill and federal funds rate decreases of 200 basis points produce a decrease in cost recovery of 0.2 percentage points. The established threshold for change to cost recovery is two percentage points; therefore, interest rate risk associated with using these balances is within acceptable levels and no long-term debt is imputed.

Table 16 shows the imputed PSAF elements, the pre-tax return on equity, and other required PSAF recoveries proposed for 2002 along with the financing and tax rates used for developing the 2002 PSAF. The elimination of imputed short- and long-term debt results in a decline in expenses associated with debt financing of $32.0 million. The pre-tax return on equity rate decreased from 24.0 percent for 2001 to 22.1 percent for 2002. As a result of this rate decrease and reduced imputed equity, the pre-tax return on equity declined $28.6 million. As indicated previously, the 2002 pre-tax return on equity was calculated using the combined results of three models, while 2001 PSAF pre-tax return on equity was calculated using the single CAE method. The effective tax rate used in 2002 also decreased to 29.3 percent from 31.5 percent in 2001.

3. *Capital Adequacy and FDIC Assessment*—As shown in table 17, the amount of equity imputed for the proposed 2002 PSAF is $592.3 million, a decrease of $72.1 million from imputed equity of $664.4 in 2001. As noted above, the 2002 equity is based on 5 percent of total assets, as required by the FDIC for a well-capitalized institution in its definition for purposes of assessing insurance premiums. In both 2002 and 2001, the capital to risk-weighted asset ratio and the capital to total assets ratio both exceed regulatory guidelines. As a result, no FDIC assessment is imputed for either year.

4. *Peer Group*—Using total deposits instead of total assets as the basis of selection of the peer group marginally changed the peer group composition. Three new holding companies are represented for 2000 data, the last year for which audited data are available.

III. Analysis of Competitive Effect

All operational and legal changes considered by the Board that have a substantial effect on payments system participants are subject to the competitive impact analysis described in the March 1990 policy statement ''The Federal Reserve in the Payments System.'' [26] Under this policy, the Board assesses whether the change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services because of differing legal powers or constraints or because of a dominant market position of the Federal Reserve deriving from such legal differences. If the fees or fee structures create such an effect, staff must further evaluate the changes to assess whether their benefits—such as contributions to payment system efficiency, payment system integrity, or other Board objectives—can be retained while reducing the hindrances to competition.

The Board does not believe that these fees or fee structures will have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services. Assuming the Reserve Banks' volume and cost projections are accurate, these fees are set to provide the Federal Reserve a return on equity similar to that earned by the large BHCs and provide for full cost recovery over the long run.

[26] FRRS 7–145.2.

TABLE 13.—COMPARISON OF PRO FORMA BALANCE SHEETS FOR FEDERAL RESERVE PRICED SERVICES

[Millions of dollars—average for year]

	2002	2001
Short-term assets:		
Imputed reserve requirement on clearing balances[27]	$ 678.5	$ 742.4
Investment in marketable securities[27]	5,473.0	6,681.9
Receivables	81.7	77.3
Materials and supplies	3.8	3.6
Prepaid expenses	27.8	23.4
Items in process of collection[28]	4,102.8	3,606.7
Total short-term assets	10,367.6	11,135.3
Long-term assets:		
Premises[29]	431.1	417.5
Furniture and equipment	177.7	185.5
Leasehold improvements and long-term prepayments	70.4	73.9
Prepaid pension costs	800.1	718.5
Total long-term assets	1,479.3	1,395.4
Total assets	$11,846.9	$12,530.7
Short-term liabilities:		
Clearing balances and balances arising from early credit of uncollected items	$ 7,377.5	$ 7,424.3
Deferred credit items[28]	3,509.8	3,606.7
Short-term debt[30]	0.0	18.9
Short-term payables	103.9	85.4
Total short-term liabilities	10,991.2	11,135.3
Long-term liabilities:		
Postemployment/retirement benefits	263.4	251.9
Long-term debt[30]	0.0	479.1
Total long-term liabilities	263.4	731.0
Total liabilities	11,254.6	11,866.3
Equity	592.3	664.4
Total liabilities and equity	$11,846.9	$12,530.7

[27]Funded with clearing balances.
[28]Represents float costs that are directly estimated at the service level.
[29]Includes allocations of Board of Governors' assets to priced services of $1.1 million for 2002 and $0.7 million for 2001.
[30]No debt is imputed in 2002 because clearing balances are used as an available funding source.

TABLE 14.—PORTION OF CLEARING BALANCES USED TO FUND PRICED SERVICES ASSETS IN 2002

[Dollar amounts in millions]

A. Short-term asset funding:	
Short-term assets to be funded:	
Receivables	$81.7
Materials and supplies	3.8
Prepaid expenses	27.8
Total short-term assets to be funded	113.3
Short-term funding sources: Short-term payables	103.9
Portion of short-term assets funded with imputed short-term debt or non-core clearing balances [31]	9.4
B. Long-term asset funding:	
Long-term assets to be funded:	
Premises	$431.1
Furniture and equipment	177.7
Leasehold improvements and long-term prepayments	70.4
Prepaid pension cost	800.1
Total long-term assets to be funded.	
Long-term funding sources:	
Postemployment/retirement benefits liability	263.4
Imputed equity [32]	592.3
	855.7
Portion of long-term assets funded with imputed long-term debt or core clearing balances [31]	623.6

C. Total clearing balances used for funding priced-services assets.

[31] Clearing balances shown on table 13 are available for funding priced-services assets. Using these balances reduces the amount available for investment in Treasury bills for the net income on clearing balances calculation. Short-term assets are funded with non-core clearing balances. Long-term assets are funded with core clearing balances; a total of $4 billion in balances is available for this purpose. No short-or long-term debt is imputed.

[32] See table 16 for calculation of required imputed equity amount.

TABLE 15.—2002 INTEREST RATE SENSITIVITY ANALYSIS

[Dollar amounts in millions]

	Rate sensitive	Rate insensitive	Total
Assets:			
Imputed reserve requirement on clearing balances		$678.5	$78.5
Investment in marketable securities	$5,473.0		5,473.0
Receivables		81.7	81.7
Materials and supplies		3.8	3.8
Prepaid expenses		27.8	27.8
Items in process of collection [33]	593.0	3,509.8	4,102.8
Long-term assets		1,479.3	1,479.3
Total assets	$6,066.0	$5,780.9	$11,846.9
Liabilities:			
Clearing balances and balances arising from early credit of uncollected items [34]	$5,892.2	$1,485.3	$7,377.5
Deferred credit items		3,509.8	3,509.8
Short-term payables		103.9	103.9
Long-term liabilities		263.4	263.4
Total liabilities	$5,892.2	$5,362.4	$11,254.6
Rate change results:		200 basis point decrease in both rates	
Asset yield ($6,066.0x − .02)		$(121.3)	
Liability cost ($5,892.2x − .02)		(117.8)	
Effect of 200 basis point decrease		$(3.5)	
2002 budgeted revenue	$955.9		
Effect of decrease	(3.5)		
Revenue adjusted for effect of interest rate decrease	$952.4		
2002 budgeted total expenses	$900.9		
2002 budgeted target ROE	92.5		
Tax effect of interest rate decrease ($ − 3.5 × 29.3%)	(1.0)		
Total recovery amounts	$992.4		
Recovery rate before interest rate decrease	96.2%		
Recovery rate after interest rate decrease	96.0%		
Effect of interest rate decrease on cost recovery [35]	.2%		

[33] The amount designated rate sensitive represents the amount of cash items in process of collection that are invested in three-month Treasury bills.

[34] The amount designated rate insensitive represents clearing balances on which earnings credits are not paid.

[35] Effect of a potential change in rates is less than a 2 percentage point change in cost recovery, therefore, no long-term debt is imputed for 2002.

TABLE 16.—DERIVATION OF THE 2002 AND 2001 PSAF [DOLLAR AMOUNTS IN MILLIONS]

	2002	2001
A. Imputed elements:		
Short-term debt [36]	$0.0	$18.9
Long-term debt [37]	$0.0	$479.1
Equity:		
Total assets from table 13	$11,846.9	
Required capital ratio [38]	5%	
Total equity	$592.3	$664.4
B. Cost of Capital:		
1. Financing rates/costs:		
Short-term debt	N/A	4.7%
Long-term debt	N/A	6.5%
Pre-tax return on equity [39]	22.1%	24.0%
2. Elements of capital costs: [40]		
Short-term debt	$0.0	$18.9×4.7% = $.9
Long-term debt	0.0	479.1×6.5% = 31.1
Equity	$592.3×22.1% = 130.9	664.4×24.0% = 159.5

TABLE 16.—DERIVATION OF THE 2002 AND 2001 PSAF [DOLLAR AMOUNTS IN MILLIONS]—Continued

	2002	2001
Total equity	$130.9	$191.5
C. Other required PSAF recoveries:		
Sales taxes	$14.1	$10.5
Federal deposit insurance assessment	0.0	0.0
Board of Governors expenses	5.1	4.9
	19.2	15.4
D. Total PSAF recoveries	$150.1	$206.9
As a percent of assets	1.3%	1.7%
As a percent of expenses [41]	19.0%	28.5%
E. Tax rates	29.3%	31.5%

[36] No short-term debt is imputed in 2002 because clearing balances are used as a funding source. For 2001, short-term debt is imputed to finance only those assets that are not funded with short-term payables.

[37] No long-term debt is imputed in 2002 because clearing balances are used as a funding source. For 2001, long-term debt consists of total priced long-term assets less postretirement/postemployment benefit liabilities.

[38] Based on the Federal Deposit Insurance Corporation's definition of a well-capitalized institution for purposes of assessing insurance premiums.

[39] For 2001, the pre-tax rate of return on equity is based on the average after-tax rate of return on equity, adjusted by the effective tax rate to yield the pre-tax rate of return on equity for each bank holding company for each year. These data are then averaged over five years to yield the pre-tax return on equity for use in the PSAF. For 2002, the pre-tax rate of return on equity is determined averaging the result from the method used for 2001 (23.5%), along with results from a capital asset pricing model (21.4%), and a discounted cash flow model (21.4%).

[40] The division of financing between debt and equity for 2001 was determined using the debt-to-equity ratio from the bank holding company model.

[41] System 2002 budgeted priced services expenses less shipping are $791.9 million.

TABLE 17.—COMPUTATION OF 2002 PROPOSED CAPITAL ADEQUACY FOR FEDERAL RESERVE PRICED SERVICES

[Millions of dollars]

	Assets	Risk weight	Weighted assets
Imputed reserve requirement on clearing balances	$678.5	0.0	0.0
Investment in marketable securities	5,473.0	0.0	0.0
Receivables	81.7	.2	16.3
Materials and supplies	3.8	1.0	3.8
Prepaid expenses	27.8	1.0	27.8
Items in process of collection	4,102.8	.2	820.6
Premises	431.1	1.0	431.1
Furniture and equipment	177.7	1.0	177.7
Leases, leasehold improvements & long-term prepayments	70.4	1.0	70.4
Prepaid pension costs	800.1	1.0	800.1
Total	$11,846.9		$2,347.8
Imputed equity for 2002: $592.3			
Capital to risk-weighted assets: 25.2%			
Capital to total assets: 5.0%			

AUTOMATED CLEARING HOUSE FEE SCHEDULE [42]

	Fees
Origination (per item or record): [43]	
Items in small files	$0.0055
Items in large files	0.0040
Addenda record	0.0020
Receipt (per item or record):	
Item	0.005
Addenda record	0.002
Input file-processing fees (per file)	5.00
Monthly fees (per routing number):	
Account servicing fee [44]	25.00
FedACH settlement [45]	20.00
Information extract file	10.00
Voice response return item/notification of change (NOC) fees [46]	2.00
Nonelectronic input/output fees: [47]	
Tape input/output	25.00
Paper output	15.00
Diskette output	15.00

AUTOMATED CLEARING HOUSE FEE SCHEDULE [42]—Continued

	Fees
Facsimile return/NOC [48]	15.00
Cross-border fees:	
Cross-border item surcharge [49]	0.039
Same-day recall of item at receiving gateway operator	3.50
Same-day recall of item not at receiving gateway operator	5.00
Item trace	5.00
Microfiche	3.00
Delivery by courier	10.00

[42] This fee schedule does not include the Reserve Banks' charges to private-sector operators for interoperator transactions.
[43] Small files contain fewer than 2,500 items and large files contain 2,500 or more items.
[44] The account servicing fee applies only to routing numbers that have received or originated transactions that are processed by the Federal Reserve. Institutions that have a ''government only'' receiver status or that elect to use a PSO exclusively are not assessed the account servicing fee.
[45] The fee for FedACH settlement is applied to any routing number with activity during a month. This fee does not apply to routing numbers that use the Federal Reserve for government transactions only.
[46] The fee includes the transaction fee in addition to the voice-response fee. The Reserve Banks also assess a $15 fee for every government paper return/NOC they process. This service is not considered a priced service. The fee includes the transaction fee in addition to the conversion fee.
[47] These services are offered in contingency situations only.
[48] The fee includes the transaction fee in addition to the conversion fee.
[49] The cross-border item surcharge is a per-item surcharge in addition to the standard item, addenda, and input processing fees.

FUNDS TRANSFER AND NET SETTLEMENT FEE SCHEDULE

	Fees
Funds transfer:	
Volume-based pricing fees (originations and receipts):	
Per transfer for the first 2,500 transfers per month	$0.31
Per transfer for additional transfers up to 80,000 per month	0.22
Per transfer for every transfer over 80,000 per month	0.15
Surcharge:	
Off-line transfer originated	15.00
Telephone notification	15.00
Net settlement:	
Basic fee:	
Settlement charge per entry	0.80
Settlement file charge	14.00
Surcharge: Off-line origination per file	25.00
Monthly account maintenance [50]	60.00
Fedwire-based net settlement: [51] Settlement charge per day	100.00

[50] The monthly account maintenance fee will only be assessed if total settlement charges during a calendar month are less than $60. The fee will be reduced by the total amount of any per entry and per settlement charges incurred during the month.
[51] Participants in arrangements and settlement agents are also charged the applicable Fedwire funds transfer fee for each transfer into and out of the settlement account.

BOOK-ENTRY SECURITIES FEE SCHEDULE

[Agency Securities]

	Fees
Book-entry securities transfer:	
Basic transfer fee: Transfer or reversal originated or received	$0.66
Surcharge: Off-line transfer or reversal originated or received	25.00
Monthly maintenance fees:	
Account maintenance (per account)	15.00
Issues maintained (per issue/per account)	0.41
Purchase & sale: Transaction fee	40.00

NONCASH COLLECTION FEE SCHEDULE

	Fees
Coupon collection:	
Cash letters:	
With five or fewer coupon envelopes	$7.50
With six to fifty coupon envelopes	15.00
Coupon envelopes:	
With five or fewer coupon envelopes	4.75
With six to fifty coupon envelopes	2.50
Return items	20.00

NONCASH COLLECTION FEE SCHEDULE—Continued

	Fees
Bond collection (per bond)	[52]40.00

[52] Plus actual shipping costs.

SPECIAL CASH SERVICES FEE SCHEDULE

	Fees
Wrapped coin (per box[53])	
Helena	$3.25
Nonstandard packaging	
Seventh District offices (per currency order or deposit)	$12.00[54]
Helena (per coin bag deposited)	Will be discontinued December 2001
El Paso (Express Cash orders)	Discontinued October 2001

[53] There are 50 rolls of coin in each box.
[54] This service only applies to the $1 through $20 denominations.

	Surcharge	Insurance Fee[56]
Registered Mail Fees[55]		
First District	Discontinued April 2001	
Helena[57]	$30.00	
Tenth District Offices	$24.00	$0.45

[55] Depository institutions also pay any postage fees incurred for registered mail. Postage fees are billed separately from Federal Reserve Bank surcharges and insurance fees.
[56] Insurance fees are based on every $1,000 shipped via the registered mail service in excess of the first $25,000, which is covered by the U.S. Postal Service.
[57] The Helena Office only ships registered mail packages valued up to $25,000, so no additional insurance is needed in excess of the $25,000 covered by the U.S. Postal Service.

ELECTRONIC CONNECTION FEE SCHEDULE[58]

[The Reserve Banks charge fees for the electronic connections that depository institutions use to access priced services; Banks allocate cost and revenue associated with electronic access to the various priced services.]

Current Fednet network:	
Dial—receive and send (FedLine®)	$75.00 per month
Link encrypted dial	$200.00 per month
High-speed dial @ 56 kbps	$350.00 per month
Multi-drop leased line	$500.00 per month
Dedicated leased line (to 9.6 kbps)	$750.00 per month
High-speed leased line @ 19.2 kbps	$850.00 per month
High-speed leased line @ 56 kbps	$1,000.00 per month
High-speed leased line @ 128 kbps	$1,800.00 per month
High-speed leased line @ 256 kbps	$2,000.00 per month
Premium dedicated dial test connection	$500.00 per month
Basic dedicated dial test connection	$250.00 per month
Shared dial test connection	$150.00 per month
Third party contingency site dial test connection	$45.00 per month
Additional backup modem/DSU	$25.00 per month
Additional backup link encryptor	$20.00 per month
Cross-district	Actual cost[59]
Frame relay network:	
Frame Relay-FedLine @ up to 19.2 kbps[60]	$500.00 per month
Frame Relay-Computer Interface (CI) @ 56 kbps	$1,000.00 per month
Frame Relay-CI @ 256 kbps	$2,000.00 per month
Frame Relay-CI T1	$2,500.00 per month

[58] Installation, training, contingency hardware, and software certification are not considered priced services, and the fees for these services are not listed here. For a copy of the full electronic access fee schedule, contact the local Federal Reserve Bank.
[59] The customer will pay the actual costs of the circuit and a monthly surcharge to cover an equitable share of expenses associated with customer support, depreciation of hardware (that is, link encryption units), and other overhead expenses. This fee must be, at a minimum, equivalent to the standard fee for the particular type of leased line connection.
[60] The frame relay FedLine 19.2 kbps connection is identical to the frame relay 56 kbps connection except for the following: (a) Redundant equipment is not included with the 19.2 kbps option; and (b) the speed limitation of 19.2 kbps is imposed by FedLine. This connection is otherwise capable of operating at 56 kbps.

Test adn Contingency Options[63]

Connection type	Logical split	Full circuit backup	Frame connection only	Redundant component set
FedLine @ up to 19.2 kbps	No charge	$500	$420	$155
CI @ 56 kbps	No charge	845	765	N/A
CI @ 256 kbps	No charge	1,750	1,585	N/A
CI T1	No charge	2,230	2,010	N/A

[61] Test and contingency options, including redundant parts, are only available to customers with a primary connection. The exception is a third party vendor.

Logical split: Applies to production and test systems that are located together at the same facility. The institution could use the production equipment with a logical split (different port) in its router as a test or contingency facility. There is no additional cost for this option.

Full-circuit backup: Applies to production and test systems, or production and contingency systems, that are located at separate facilities, including another bank office or a third-party contingency site.[62] This option replicates full production technology and costs; only one set of equipment components is provided.

Frame connection only: Applies to production and test systems, or production and contingency systems, that are located at separate facilities. The institution uses a frame relay link connection with no ISDN dial-up backup. Only one set of equipment components is provided.[63]

Redundant components: Includes a Cisco router, a DSU and a link encryptor.

By order of the Board of Governors of the Federal Reserve System, October 31, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–27779 Filed 11–6–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 001 0040]

Airgas, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before November 26, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Christina Perez, FTC/S–2308, 600 Pennsylvania Ave., NW., Washington, DC (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 26, 2001), on the World Wide Web, at *''http://www.ftc.gov/os/2001/10/index.htm.''* A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from Airgas, Inc. (''Airgas''), which is designed to remedy the anticompetitive effects resulting from an acquisition by certain wholly-owned subsidiaries of Airgas of the Puritan Bennett Medical Gas Business (''Puritan Bennett''). Under the terms of the Consent Agreement, Airgas will be required to divest a nitrous oxide business to Air Liquide America Corporation (''Air Liquide'') within ten days of the date the Commission issues the Decision and Order in this matter.

The Consent Agreement has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the Decision and Order.

On January 21, 2000, Airgas acquired Puritan Bennett from Mallinckrodt, Inc., for approximately $90 million. The

[62] Prices shown are for full-circuit backup only located at the customer site. Multiple customers sharing a single disaster-recovery connection at a third-party provider will result in custom implementations. Districts will bill the vendor's bank for the contingency circuit

[63] Prices shown are for frame connection only located at the customer site. Multiple customers sharing a single disaster recovery connection at a third-party provider will result in custom implementations. Districts will bill the vendor's bank for the contingency circuit.

Commission's Complaint alleges that the acquisition violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the market for the production and sale of nitrous oxide in the United States and Canada (''North America'').

Nitrous oxide is a clear, odorless gas that is mainly used in dental and surgical procedures as an analgesic or a weak anesthetic. Because nitrous oxide elevates the patient's pain threshold and relieves patient anxiety, it is predominantly used by dentists when a patient is undergoing extensive dental work or by anesthesiologists during many surgical procedures as a supplement to other anesthetics. According to customers of nitrous oxide, other anesthetics and analgesics are far more expensive or have other detriments when compared to nitrous oxide, and thus are not viable substitutes for nitrous oxide.

Currently, Airgas is the only producer of nitrous oxide in North America. However, prior to its purchase by Airgas, Puritan Bennett was also a producer and seller of nitrous oxide in North America. As a result, before the acquisition, Puritan Bennett and Airgas competed against each other for a wide variety of nitrous oxide customers across the country. Therefore, Airgas's acquisition of Puritan Bennett effectively elimated any competition in the North American market for the production and sale of nitrous oxide.

There are substantial barriers to new entry into the nitrous oxide market. Effective new entry would require a company to build multiple production facilities, which would take well in excess of two years. In addition, a new entrant would have to incur substantial investments, including the acquisition of a source of red material and the development of an appropriate infrastructure to deliver bulk nitrous oxide to end-users and to distributors for resale. In light of the fact that the nitrous oxide market is relatively small compared to the costs that a new entrant would have to incur, new entry is not likely to occur. Because of the cost and difficulty of accomplishing these tasks, no new entry into the nitrous oxide market is likely to occur within the next two years to deter or counteract the anticompetive effects resulting from the transaction.

The proposed order effectively remedies the acquisition's anticompetitive effects in the North American nitrous oxide market by requiring Airgas to divest a nitrous oxide business, which consists of two nitrous oxide production plants, customers contracts, and all related assets necessary for distribution and storage to Air Liquide. The order also requires Airgas to supply Air Liquide with a specified amount of bulk liquid nitrous oxide from its Florida nitrous oxide production plant in order to ensure that Air Liquide has the same volume of nitrous oxide as Airgas did before its acquisition of Puritan Bennett.

Air Liquide has all of the necessary attributes to restore competition to the relevant market. Not only does it produce other medical gases, such as medical grade oxygen and nitrogen, but it also already has extensive contracts with gas distributors, which are the major customers of nitrous oxide. Indeed, many distributors already buy a wide variety of other gases from Air Liquide. Furthermore, Air Liquide has the financial resources to purchase the assets and operate the business in a competitive manner.

Pursuant to the proposed order, Airgas is required to divest these assets to Air Liquide within ten days of the date the Commission issues the Decision and Order in this matter. If the divestiture to Air Liquide is not accomplished by then, Airgas must divest these nitrous oxide assets to a Commission-approved acquirer within six months. Should Airgas fail to do so, the Commission may appoint a trustee to divest the business.

In order to ensure that the Commission remains informed about the status of the Airgas nitrous oxide business pending divestiture, and about efforts being made to accomplish the divestiture, the Consent Agreement requires Airgas to report to the Commission within 30 days, and every 60 days thereafter until the divestiture is accomplished. In addition, Airgas is required to report to the Commission every 60 days regarding its obligations to provide transitional services and facilities management.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute on official interpretation of the Consent Agreement or to modify in any way its terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–27960 Filed 11–6–01; 8:45 am]

BILLING CODE 6750–1–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary; Agency Information Collection Activities Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Office at (202) 619–2118 or e-mail *Geerie.Jones@HHS.gov.*

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 1. Survey of Research Integrity Measures Utilized in Biomedical Research Laboratories—NEW—The Office of Research Integrity (ORI) in performing its responsibilities, expanded its education program to promote research integrity and discourage research misconduct. As part of this education program the proposed survey will identify the measures that are being utilized by the institutions to prevent misconduct and promote research integrity in biomedical research laboratories, and establish a database on biomedical research laboratories that may be used for secondary analysis by other researchers interested in research integrity. Respondents: Business or other for-profit, Non-profit institutions; Burden Information—Number of Respondents: 5000; Frequency of Response: one time; Average Burden per Response: 15 minutes; Burden: 1,250 hours.

Send comments via e-mail to *Geerie.Jones@HHS.gov*, or mail to OS Reports Clearance Office, Room 503H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Comments should be received within 60 days of this notice.

Dated: October 30, 2001.

Kerry Weems,

Acting Deputy Assistant Secretary, Budget.

[FR Doc. 01–27981 Filed 11–6–01; 8:45 am]

BILLING CODE 4150–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period, extending through October 31, 2003.

For further information, contact Julie Gerberding, M.D., Acting Executive Secretary, Board of Scientific Counselors, National Center for Infectious Diseases, Centers for Disease Control and Prevention, of the Department of Health and Human Services, 1600 Clifton Road, NE, M/S C–12, Atlanta, Georgia 30333, telephone 404–639–3967 or fax 404–639–3039.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–27906 Filed 11–6–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC): Location Change

ACTION: Notice.

CDC announces the following change to the notice of meeting published October 2, 2001, 66 FR 50201.

Name: Healthcare Infection Control Practices Advisory Committee.

Times and Dates: 8:30 a.m.–5 p.m., November 13, 2001. 8:30 a.m.–4 p.m., November 14, 2001.

Old Place: CDC, Auditorium A, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

NEW PLACE: Atlanta Marriott Century Center, 2000 Century Boulevard, NE., Atlanta, Georgia 30345. Telephone: 404–325–0000.

Status: Open to the public, limited only by the space available.

Summary: Notice is given that meeting place for Healthcare Infection Control Practices Advisory Committee has changed. The meeting status, and purpose, announced in the original notice remain the unchanged.

Contact Person for More Information: Michele L. Pearson, M.D., Executive Secretary, HICPAC, Division of Healthcare Quality Promotion, NCID, CDC, 1600 Clifton Road, NE., M/S A–07, Atlanta, Georgia 30333, telephone 404/498–1182.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for ToxicSubstances and Disease Registry.

Dated: November 1, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–27905 Filed 11–6–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: TANF Time Limits Questionnaire.

OMB No.: New Collection.

Description: The imposition of federally imposed time limits on the receipt of cash assistance under the Temporary Assistance to Needy Families (TANF) program was a central and major part of welfare reform. The earliest that TANF recipients could be affected by the 60-month Federal limit will be in the last quarter of 2001. The purpose of the TANF Time Limits project is to document what is known about this important element of welfare reform as the period for TANF re-authorization approaches. The proposed survey instrument is intended to obtain '' real-time'' information from those States in which TANF recipients could have reached the 60 month limit on receipt of federally funded assistance in the last quarter of calendar year 2001 or terminated earlier under a State specific time limit. The instrument is designed to gather preliminary information about the number of families accumulating 60 months of benefits, the outcomes for such families (*e.g.,* cases closed, benefits extended with Federal funds, benefits extended with State funds), and the policies and practices of states to work with families approaching or reaching the Federal and State time limit.

Respondents: The primary respondents for the questionnaire are those States that implemented TANF before February 1997. States that implemented TANF later might also be surveyed.

Annual Burden Estimates

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF Time Limits Questionnaire. State where:				
No one could have reached a time limit				
First call	18	1	.25	4.5
Written survey	18	1	10	180
Second call	18	1	.5	9
Only state time limit is binding				
First call	16	1	.25	4
Written survey	16	1	14	224
Second call	16	1	1	16

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Only federal time limit is binding				
First call	13	1	.25	3.25
Written survey	13	1	21	273
Second call	13	1	1	13
Federal and state time limits are binding.				
First call	4	1	.25	1
Written survey	4	1	23	92
Second call	4	1	1.5	6
Estimated Total Annual Hours:				825.75

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, *Attn:* Desk Officer for ACF.

Dated: November 1, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–27980 Filed 11–6–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93D–0139]

International Conference on Harmonisation; Guidance on Q1A Stability Testing of New Drug Substances and Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised guidance entitled ''Q1A(R) Stability Testing of New Drug Substances and Products.'' The revised guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance sets forth recommendations on the information to be submitted in the stability data package for a new drug substance or drug product for a registration application within the three regions of the European Union (EU), Japan, and the United States. The purpose of the revision is to add information to certain sections and to provide clarification to other sections of the guidance.

DATES: This guidance is effective November 7, 2001. Submit written or electronic comments at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3844, FAX 888–CBERFAX. Send two self-addressed adhesive labels to assist the office in processing your requests. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Chi-wan Chen, Center for Drug Evaluation and Research (HFD–830), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2001, or Andrew Shrake, Center for Biologics Evaluation and Research (HFM–345), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–402–4635.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The EU, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health, Labor and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In accordance with FDA's good guidance practices (GGPs) regulation (21 CFR 10.115), this document is being called a guidance, rather than a guideline.

To facilitate the process of making ICH guidances available to the public, the agency has changed its procedures for publishing ICH guidances. As of April 2000, FDA no longer include the text of ICH guidances in the **Federal Register**. Instead, we publish a notice in the **Federal Register** announcing the availability of an ICH guidance. The ICH guidance is placed in the docket and can be obtained through regular agency sources (see the **ADDRESSES** section). Draft ICH guidances are left in the original ICH format. Final guidances are reformatted to conform to the GGP style before publication.

In the **Federal Register** of April 21, 2000 (65 FR 21446), FDA published a draft revised tripartite guidance entitled ''Q1A(R) Stability Testing of New Drug Substances and Products.'' The notice gave interested persons an opportunity to submit comments by June 5, 2000. The draft revised guidance was a revision of an ICH guidance on the same topic published in the **Federal Register** of September 22, 1994 (59 FR 48754).

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies on November 9, 2000.

ICH Q1A provides guidance on the information to be submitted in the stability data package for a new drug substance or drug product for a registration application within the three regions: The EU, Japan, and the United States. The purpose of the ICH Q1A revision is to add information to certain sections and to provide clarification to other sections of the guidance. The following sections are the most important sections that have been revised:

- The section on stress testing of the active substance has been moved from the glossary to the main text.
- The text on test procedures has been brought in line with the ICH Q6A guidance. Relevant cross-references to other ICH guidances have been introduced.
- The text on testing frequency has been amended for accelerated testing conditions.
- Storage conditions have been described in more detail. Testing at low temperature and testing of aqueous liquids in semipermeable containers have been specifically addressed.
- The postapproval commitment is now clearly described.

The guidance has also been revised to remove several editorial inconsistencies, including some revision of the glossary.

This guidance represents the agency's current thinking on stability testing of new drug substances and products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the guidance at any time. Two copies of any comments are to be submitted, except that individuals can submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at eitherhttp://www.fda.gov/ohrms/dockets/default.htm, http://www.fda.gov/cder/guidance/index.htm, or http://www.fda.gov/cber/publications.htm.

Dated: October 30, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–27958 Filed 11–6–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995 as last amended at 66 FR 52421–29, dated October 15, 2001).

This notice announces the title change only for the Division of Health Careers Development (RPD) in the Bureau of Health Professions (BHPr), the functions remain the same. Make the following change in the title:

Division of Health Careers Diversity and Development (RPD)

Serves as the focal point for the Health Professions and Nursing Student Loan and Scholarship Programs, the Exceptional Financial Need Scholarship Program, the Federal Assistance to Disadvantaged Health Professions Scholarship Program, the Health Educational Assistance Loan Program, the Health Professions and Nursing Educational Loan Repayment and Loan Cancellation Programs by providing leadership to assure equity in access to health resources and health careers for diverse and disadvantaged populations. Specifically: (1) Provides technical assistance to groups that represent and seek to improve the health status of diverse and disadvantaged populations, and facilitates the access of such groups to Bureau and other Federal programs and resources; (2) provides leadership and direction for the development and implementation of Bureau objectives as they relate to diverse and disadvantaged populations; (3) develops and recommends health resources and health career opportunities for diverse and disadvantaged populations; (4) initiates, stimulates, supports, coordinates, and evaluates Bureau programs for improving the availability and accessibility of health careers for diverse and disadvantaged populations; (5) initiates, stimulates, supports, coordinates, and evaluates in conjunction with other Bureau units, comprehensive data systems and analyses on requirements, resources, accessibility, and accountability of the health delivery system for diverse and disadvantaged populations; (6) conducts special studies and collects baseline data to identify specific factors contributing to the health and health-related problems of diverse and disadvantaged populations, and to develop strategies for improving health services and career opportunities for diverse and disadvantaged populations; (7) conducts extramural programs, including the use of grants and contracts, specifically designed to promote equity in access to health careers; (8) assures contract compliance and implementation of the Policy Statement on Civil Rights in the Bureau; (9) in coordination with the Bureau's

divisions and in collaboration with other HRSA entities, provides leadership for and assures implementation of Presidential, Departmental, and other special initiatives addressing the needs of diverse and disadvantaged populations; (10) conducts and coordinates Bureau programs in health careers for women; (11) provides leadership to develop and coordinate Bureau program support to student health organizations; (12) provides advice and consultation on policy and other matters related to assuring equity in access to health resources and health careers for diverse and disadvantaged populations; (13) plans, develops, implements and promotes special initiatives and projects; (14) coordinates all necessary Federal, state and/or private sector involvement to insure the success of the initiative; (15) takes appropriate steps to institutionalize initiatives which successfully promote the mission of the Bureau; (16) directs and administers the Health Professions and Nursing Student Loan and Scholarship Programs, the Exceptional Financial Need Scholarship Program, the Federal Assistance to Disadvantaged Health Professions Scholarship Program, the Health Educational Assistance Loan Program, the Health Professions and Nursing Educational Loan Repayment and Loan Cancellation Programs including the awarding of loan and scholarship funds; (17) develops and implements program plans and policies and operating and evaluation plans and procedures in coordination with the Office of Policy and Planning; (18) monitors and assesses educational and financial institutions with respect to capabilities and management of Federal support for students; (19) develops and conducts training activities for staff of educational and financial institutions; (20) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions; (21) maintains liaison with the Office of the General Counsel, and the Office of the Inspector General, DHHS, components of the Department of Education and the Department of Defense, and State agencies concerning student assistance; (22) coordinates financial aspects of programs with educational institutions; and (23) develops program data needs, formats, and reporting requirements, including collection, collation, analysis and dissemination of data.

Section RA–30 Delegation of Authority

All delegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further redelegation. I hereby ratify and affirm all actions taken by any DHHS official which involved the exercise of these authorities prior to the effective date of this delegation.

This reorganization is effective upon the date of signature.

Dated: October 30, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–27899 Filed 11–6–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4407–N–02]

The Performance Review Board

AGENCY: Office of the Deputy Secretary, HUD.

ACTION: Notice of Appointments.

SUMMARY: The Department of Housing and Urban Development announces the appointments of Alphonso Jackson, Frank L. Davis, Marcella E. Belt, Paula O. Blunt, Nelson R. Bregon, Kathleen D. Koch, Floyd O. May, Michael J. Najjum Jr., Lawrence L. Thompson, Margaret E. White, and Margaret Young as members; and Sam E. Hutchinson and Pamela H. Patenaude as alternate members to the Departmental Performance Review Board. The address is: Department of Housing and Urban Development, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Earnestine Pruitt, Director, Executive Personnel Management Division, Department of Housing and Urban Development, Washington, DC 20410, telephone (202) 708–1381. (This is not a toll-free number.)

Dated: October 25, 2001.

Alphonso Jackson,

Deputy Secretary, Department of Housing and Urban Development.

[FR Doc. 01–27902 Filed 11–6–01; 8:45 am]

BILLING CODE 4201–32–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of the Exxon Valdez Oil Spill Public Advisory Group

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: The Department of the Interior, Office of the Secretary is announcing a public meeting of the Exxon Valdez Oil Spill Public Advisory Group.

DATES: December 10, 2001, at 9:00 a.m.

ADDRESSES: Fifth floor conference room, 441 West 5th Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Douglas Mutter, Department of the Interior, Office of Environmental Policy and Compliance, 1689 ''C'' Street, Suite 119, Anchorage, Alaska, (907) 271–5011.

SUPPLEMENTARY INFORMATION: The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America v. State of Alaska,* Civil Action No. A91–081 CV. The meeting agenda will feature discussions about the fiscal year 2002 restoration work plan, the habitat program, the 2002 annual workshop, and the proposed Gulf of Alaska Ecosystem Monitoring and Research program.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 01–27937 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On April 18, 2001, a notice was published in the **Federal Register** (66 FR 19979), that an application had been filed with the Fish and Wildlife Service by National Biological Services, Alaska Biological Science Center, Anchorage, Alaska, for renewal of a permit (PRT–801652). The applicant requested renewal of their permit to capture, immobilize, tag, implant transmitters, collect blood, tissue and whisker samples, biopsy, and release walrus from the wild to continue scientific research to develop reliable methods for anesthetizing and holding walrus, develop methods for attaching transmitters and testing these devises in determining walrus movements, diving and haulout patterns, and collect data on physiological status and life history parameters of walrus. The applicant also intends to import biological samples

collected from walrus outside of the United States.

Notice is hereby given that on October 10, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On June 15, 2001, a notice was published in the **Federal Register** (66 FR 32636), that an application had been filed with the Fish and Wildlife Service by California Department of Fish and Game, Santa Cruz, California, for a permit (PRT–039953) to take and hold Southern sea otters (*Enhydra lutris nereis*) for rehabilitation purposes.

Notice is hereby given that on October 10, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested activities under a Letter of Authorization subject to certain conditions set forth therein.

On August 29, 2001, a notice was published in the **Federal Register** (66 FR 45689), that an application had been filed with the Fish and Wildlife Service by Thomas Edward Ferry for a permit (PRT–043735) to import one polar bear (*Ursus maritimus*), taken from the Viscount Melville population, Canada for personal use.

Notice is hereby given that on October 9, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On June 15, 2001, a notice was published in the **Federal Register** (66 FR 32636), that an application had been filed with the Fish and Wildlife Service by Bruce DeShano for a permit (PRT–043824) to import one polar bear (*Ursus maritimus*), taken from the Northern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on October 4, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: October 19, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–27941 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Approval

The following applicant has applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Mr. Stuart E. Rossell of Toms River, New Jersey. The applicant wishes to establish a cooperative breeding program for black sparrowhawk (*Accipiter melanoleucus*), European sparrowhawk (*Accipiter nisus*), African hawk-eagle (*Heiraaetus spilogaster*), lanner falcon (*Falco biarmicus*), saker falcon (*Falco cherrug*), and red headed falcon (*Falco chicquera*). The applicant wishes to be an active participant in this program along with three other individuals. The California Hawking Club, Inc. has assumed the responsibility of oversight of this program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); Fax: (703/358–2281).

Dated: October 26, 2001.

Andrea Gaski,

Chief, Branch of CITES Operations, Division of Management Authority.

[FR Doc. 01–27936 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID090–01–2822–JL–F199]

Emergency Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Emergency Closure.

SUMMARY: This notice closes roads, trails, and all cross country travel to mechanized vehicles (motorized vehicles and mountain bikes) on BLM administered lands within the perimeter of the Frozen Dog Fire in Gem County, Idaho.

EFFECTIVE DATE: This Emergency Closure Order is effective immediately through September 30, 2003.

ADDRESSES: Bureau of Land Management, Four Rivers Field Office, 3948 Development Ave., Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Daryl Albiston, Four Rivers Field Manager, (208) 384–3300.

SUPPLEMENTARY INFORMATION: The Frozen Dog fire burned portions of public lands in sections 2, 3, 10 and 11 of Township 6 North, Range 1 West, Boise Meridian, Idaho. The emergency closure is intended to protect soil and watershed values. The closure will be in effect immediately and will expire September 30, 2003. Exceptions to this closure include vehicle use for administrative and emergency purposes. Under special circumstances, the authorized officer may issue a permit allowing vehicle access into the area for specific purposes. Definitions: (a) ''Public lands'' means any lands or interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management; (b) ''Authorized Officer'' means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this order; (c) ''Emergency vehicles'' means any fire, law enforcement or military vehicles used for emergency purposes; (d) ''Administrative vehicles'' refers to any vehicles used by an employee, agent or designated representative of the federal government, or one of it's contractors, in the course of their employment, agency or representation. This closure is being established and administered by the Bureau of Land Management Authority for this action is found in CFR Title 43, subpart 8360.0–3 and complies with CFR Title 43, subpart 8364.1 Closure and Restriction Orders. Violation of this

closure order is in accordance with CFR Title 43, subpart 8360.0–7.

Dated: October 1, 2001.

Daryl Albiston,

Four Rivers Field Manager.

[FR Doc. 01–27918 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–66–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU–78562]

Notice of Coal Lease Offering by Sealed Bid Whitmore Canyon Tract

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155. Notice is hereby given that at 1:00 p.m., December 12, 2001, certain coal resources in lands hereinafter described in Carbon County, Utah will be offered for competitive lease by sealed bid of $100.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 437). *However, no bid will be accepted for less than fair market value as determined by the authorized officer.* A company or individual is limited to *one sealed bid.* If a company or individual submits two or more sealed bids for this tract, all of the company's or individual's bids will be rejected.

This lease is being offered for sale under the provisions set forth in the regulations for Leasing on Application at 43 CFR 3425.

The lease sale will be held in the Bureau of Land Management Conference Room, Utah State Office, 324 South State Street, Suite 302, Salt Lake City, Utah at 1 p.m. on December 12, 2001. At that time, the sealed bids will be opened and read. No bids received after 10 a.m., December 12, 2001, will be considered.

Coal Offered: The coal resources to be offered consist of all recoverable reserves available in the following described lands located in Carbon County, Utah, approximately 4 miles north of East Carbon City, Utah:

T. 13 S., R. 13 E., SLM, Utah
Sec. 35, S2SW, SE.
T. 14 S., R. 13 E., SLM, Utah
Sec. 1, lots 2–7, SWNE,S2NW,SW,W2SE;
Sec. 12, lots 1–4, S2N2,NESW,SE;
Sec. 13, NENE.
T. 14 S., R. 14 E., SLM, Utah
Sec. 6, lot 6;
Sec. 7, lots 3 and 4;
Sec. 18, lot 1, E2NW.
Containing 1,646.34 acres

The tract has one potentially minable coal seam, the Upper Sunnyside. The minable portions of the seam in this area are from 6 to 9 feet in thickness and average 8 feet. This tract contains an estimated 14.8 million tons of recoverable coal.

The estimated coal quality using weighted averages of samples on an as-received basis is:

13,256 BTU/lb.;
4.70 Percent moisture;
1.26 Percent sulphur;
5.60 Percent ash;
45.98 Percent fixed carbon;
36.87 Percent volatile matter
(Totals do not equal 100% due to rounding)

Rental and Royalty: A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods, and 8 percent of the value of coal mined by underground methods. The value of coal shall be determined in accordance with BLM Manual 3070.

Notice of Availability: Bidding instructions are included in the Detailed Statement of Lease Sale. A copy of the detailed statement and the proposed coal lease are available by mail at the Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155 or in the Public Room (Room 400), 324 South State Street, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in the Public Room (Room 400) of the Bureau of Land Management.

Dated: October 24, 2001.

Joseph J. Incardine,

Acting Deputy State Director, Lands and Minerals.

[FR Doc. 01–27927 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–09–1320–01, WYW154839]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 CFR 3410, all interested parties are hereby invited to participate with Jacobs Ranch Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 41 N., R. 71 W., 6th P.M., Wyoming, Sec. 26: Lots 3–6 and 11–14. Containing 323.69 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to obtain coal quality data.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW154839): BLM, Wyoming State Office (WSO), 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, BLM, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in ''The News-Record'' of Gillette, WY, once each week for two consecutive weeks beginning the week of November 5, 2001, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Jacobs Ranch Coal Company no later than 30 days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Jacobs Ranch Coal Company, Attn: Darryl Maunder, Caller Box 3013, Gillette, WY 82717–3013, and the BLM, WSO, Branch of Solid Minerals, Attn: Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: October 17, 2001.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 01–27914 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ER]

Notice of Intent; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Amended notice of intent to prepare an environmental impact statement (EIS) to consider the Toquop Energy Project/Lincoln County well field, water pipeline, power plant site, and access road rights-of-way in southeastern Lincoln County, Nevada and related exchange of public land in Lincoln County, Nevada for private land in Washoe County, Nevada and to amend the Caliente Management Framework Plan to address the proposed exchange of public land in Lincoln County, Nevada (to be used in part as the site of the Toquop Energy Project) for private land in Washoe County, Nevada.

SUMMARY: On July 27, 2001, notice was published in the **Federal Register** (Volume 66, Number 145, Page 39193) announcing the intent of the Bureau of Land Management to prepare an EIS to consider the Toquop Energy Project/ Lincoln County well field, water pipeline, and access road rights-of-way in southeastern Lincoln County, Nevada. The public comment period on the scope of the EIS closed on September 10, 2001. As a result of public comments received during the scoping period, the Bureau of Land Management intends to incorporate a proposed exchange of public land in Lincoln County, Nevada (to be used in part as the site of the Toquop Energy Project) for private land in Washoe County, Nevada within the scope of the EIS. Previously, the land exchange was being considered in a separate environmental assessment. In addition, the Bureau of Land Management will prepare an amendment to the Caliente Management Framework to address the proposed land exchange.

ADDRESSES: Written comments should be addressed to Bureau of Land Management, Gene A. Kolkman, Ely Field Manager, HC 33, Box 33500, Ely, Nevada 89301–9408.

FOR FURTHER INFORMATION: Daniel R. Netcher, Team Leader for Lands and Minerals, at the above address or telephone (775) 289–1872.

SUPPLEMENTARY INFORMATION: Toquop Energy has proposed an 1100 megawatt electrical generation facility fueled by natural gas from the Kern River gas pipeline. The facility is proposed to be located at T. 11 S., R. 69 E., Section 36, Mount Diablo Meridian. The facility would be located on lands which are currently public lands and would be the subject of a land exchange. Nevada Land and Resource Company has proposed to exchange private land in Washoe County, Nevada for public land in Lincoln County, Nevada, a portion of which will be used as the site for the power plant. Toquop Energy has submitted an application for a Federal Land Policy and Management Act right-of-way for the power plant site, road access, well field, and water pipeline access to the facility. The Bureau of Land Management will prepare a proposed amendment to the Caliente Management Framework Plan to address the land exchange. This EIS will evaluate the proposed Management Framework Plan amendment, the proposed land exchange and the proposed right-of-way action. The EIS will consider a No Action alternative and other alternatives including alternate locations and alignment of the well field, water pipelines, power plant site, and access road.

Public Involvement: Public informational meetings for the Toquop Energy Project EIS were held July 11, 2001, in Caliente, Nevada and July 12, 2001, in Mesquite, Nevada. A scoping meeting for the Toquop Energy Project EIS was held August 15, 2001, in Las Vegas, Nevada. Public scoping meetings for the Pah Rah/Toquop Land Exchange were held July 11, 2001, in Mesquite, Nevada and July 12, 2001, in Reno, Nevada. The public is encouraged to provide additional written comments on the Bureau of Land Management's intent to prepare a proposed amendment to the Caliente Management Framework plan and to address the proposed amendment and related land exchange in the EIS for the Toquop Energy Project. The comment period for the scoping of the EIS will commence with the publication of the Notice. Those who have comments on the EIS should respond in writing within 30 days from the date of publication of the Notice. The Notice will be distributed by mail on or about the date of publication of the Notice in the Notice publication. Release of the draft amendment to the Caliente Management Framework Plan and the draft EIS regarding the amendment, the related land exchange and the Toquop Energy Project will be announced in the local news media, as these dates are established.

Dated: October 4, 2001.

Eric K. Luse,

Associate Field Manager.

[FR Doc. 01–27926 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–600–00–1040–PG–241A]

Southwest Colorado and Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings.

SUMMARY: Notice is hereby given that the next meeting of the Southwest Colorado Resource Advisory Council (RAC) will be held December 6, 2001, at the Bureau of Land Management (BLM) Office located at 2465 South Townsend in Montrose, Colorado. Notice is also given that the next meeting of the Northwest Colorado RAC will be held on December 13, 2001, at the Bureau of Land Management (BLM) Office located at 2815 H Road in Grand Junction, Colorado.

DATES: Southwest RAC meeting: December 6, 2001; Northwest RAC meeting: December 13, 2001.

FOR FURTHER INFORMATION CONTACT: Larry J. Porter, Bureau of LandManagement, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3012.

SUPPLEMENTARY INFORMATION: The Southwest Colorado RAC will meet on Thursday, December 6, 2001, in the main conference room of the Montrose BLM Office located at 2465 South Townsend in Montrose, Colorado. The meeting will begin at 9 a.m., and will adjourn upon completion of the agenda, approximately 4 p.m. The purpose of the meeting is to provide orientation to newly-appointed council members and to consider several resource management topics including travel management, oil and gas program, weed management , and coordination with other advisory councils.

The Northwest Colorado RAC will meet on Thursday, December 13, 2001, in the main conference room of the Grand Junction BLM Office located at 2815 H Road in Grand Junction, Colorado. The meeting will begin at 9 a.m., and will adjourn upon completion of the agenda, approximately 4 p.m.. The purpose of the meeting is to provide orientation to newly-appointed council members, to receive updates on recent

land use planning activities, and to receive RAC subcommittee updates.

These meetings are open to the public. Interested members of the public may present written or oral comments to either of the RACs at 9:30 a.m, on their respective meeting dates. Per-person time limits for oral statements may be set to allow all interested individuals an opportunity to speak. Subject to the time available, individuals may also be allowed to provide input to the councils during the discussion of specific agenda topics.

Summary minutes of RAC meetings are maintained in the BLM Western Slope Center Office located at 2815 H Road, Grand Junction, CO 81506, phone (970) 244–3000. Minutes are available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: October 17, 2001.

Mark W. Stiles,

Western Slope Center Manager.

[FR Doc. 01–27910 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–070–1020–PG]

Upper Snake River District Resource Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Upper Snake River District Resource Advisory Council Meeting: Locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM) meeting of the Upper Snake River District Resource Advisory Council (RAC) will be held as indicated below. The agenda for this two-day meeting will largely cover planning issues in the Upper Snake River District, principally the Pocatello Resource Management Plan and the Craters of the Moon National Monument Plan. The agenda may change as issues warrant between publication of this notice and the meeting.

All meetings are open to the public. The public may present written or oral comments to the council. Each formal council meeting will have a time allocated for hearing public comments. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations should contact David Howell at the Upper Snake River District Office, 1405 Hollipark Dr., Idaho Falls, ID 83401, or telephone (208) 524–7559.

DATES AND TIMES: The meeting will be held November 28–29, 2001 at the BLM office, 1405 Hollipark Drive, in Idaho Falls. An executive session of the RAC will begin at 1 p.m., and the full RAC meeting will begin at 2 p.m. The meeting will conclude no later than 3 p.m. the following day. Public comments, if any, will be scheduled from 8:30 a.m. to 9 a.m. on November 29.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the of the public lands.

FOR FURTHER INFORMATION CONTACT: David Howell, Upper Snake River District, 1405 Hollipark Dr., Idaho Falls, ID 83401, (208) 524–7559.

Dated: October 4, 2001.

Joe Kraayenbrink,

Idaho Falls Field Manager.

[FR Doc. 01–27912 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–66–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Snake River District Resource Advisory Council; Meeting

AGENCY: Lower Snake River District, Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise. Agenda topics include subgroup reports on the OHV initiative, sage grouse and river recreation, as well as an update on the two new Resource Management Plans and other land management issues.

DATES: December 6, 2001. The meeting will begin at 11:30 a.m. Public comment periods will be held after each topic. The meeting is expected to adjourn at 4:30 p.m.

ADDRESSES: The meeting will be held at the Lower Snake River District Office, located at 3948 Development Avenue, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Mary Jones, Lower Snake River District Office (208–384–3305).

Dated: September 21, 2001.

Katherine Kitchell,

District Manager.

[FR Doc. 01–27913 Filed 11–6–01; 8:45 am]

BILLING CODE 1020–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–500–1310–PB–252Z]

Front Range Resource Advisory Council (Colorado); Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next meeting of the Front Range Resource Advisory Council (Colorado) will be held on January 10, 2002 in Canon City, Colorado.

The meeting is scheduled to begin at 9:15 a.m. at the Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado. Topics will include an update on current public land issues and an update on the Bureau of Land Management minerals program.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The Center Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Thursday, January 10, 2002 from 9:15 a.m. to 4 p.m.

ADDRESSES: Bureau of Land Management (BLM), Front Range Center Office, 3170 East Main Street, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: For further information contact Ken Smith at (719)269–8500.

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Front Range Center Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: October 4, 2001.

Roy L. Masinton,

Royal Gorge Field Manager.

[FR Doc. 01–27925 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–120–9260PD–241A; 01–0344]

Intent To Conduct Restoration Planning: *M/V New Carissa* Natural Resource Damage Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Natural Resource Trustees for the *M/V New Carissa* oil spill have chosen to enter into the restoration planning phase of a Natural Resource Damage Assessment. The purpose of this phase is to prepare a plan for the restoration, rehabilitation, replacement or the acquisition of the natural resources injured, destroyed or lost, or the uses of which were lost, as a result of this spill.

FOR FURTHER INFORMATION CONTACT: Larry Mangan, Bureau of Land Management, Coos Bay District, 1300 Airport Lane, North Bend, OR 97459. He may be reached by telephone at 541–751–4231.

SUPPLEMENTARY INFORMATION:

Public Notice

U.S. Department of Interior; U.S. Department of Agriculture; State of Oregon, Departments of Environmental Quality and Fish and Wildlife; Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians; and the Confederated Tribes of the Siletz, Oregon.

Notice of Intent To Conduct Restoration Planning

M/V New Carissa Oil Spill

On February 4, 1999, the *M/V New Carissa,* a 194-meter bulk cargo ship in ballast, went aground approximately 5 kilometers north of the north jetty of the entrance to Coos Bay, Oregon. On or about February 8, 1999, the stranded vessel began leaking oil, an *in situ* burn was conducted, the vessel split in two, and additional oil was released. The bow section was refloated and towed offshore, only to break its tow, release some oil and re-ground approximately 110 km to the north at Waldport, Oregon, where additional oil was released. The bow section was again refloated, towed to sea, and sunk. The stern section remains stranded near the entrance to Coos Bay. In all, an estimated 25,000 to 70,000 gallons or more of oil were released into the waters off the coast of Oregon. The oil spill is referred to in this Notice of Intent to Conduct Restoration Planning (''Notice''), issued pursuant to 15 CFR 990.44, as the ''Incident.''

Pursuant to section 1006(b) of the Oil Pollution Act of 1990 (''OPA''), 33 U.S.C. 2706(b), the following officials have been designated trustees of natural resources for this Incident (Trustees): the Secretary of the U.S. Department of the Interior, represented by the State Director for Oregon/Washington of the Bureau of Land Management, and the Secretary of the U.S. Department of Agriculture, represented by the Regional Director of Recreation, Lands and Minerals, Forest Service Region 6; the Directors of the State of Oregon Departments of Environmental Quality and Fish and Wildlife; and the Tribal Chairmen of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and of the Confederated Tribes of the Siletz, Oregon. The Trustees are responsible for assessing the damages to natural resources under their trusteeship that have resulted from the Incident, developing a plan for the restoration of these resources, and pursuing funding from responsible parties for implementation of this plan or implementation of the plan by the responsible parties themselves. The Trustees are proceeding in accordance with the regulations for natural Resource Damage Assessments at 15 CFR part 990.

One of the goals of OPA is to make the environment and the public whole for injuries to natural resources and services resulting from an incident involving a discharge or substantial threat of a discharge of oil from a vessel into or upon the navigable waters or adjoining shorelines. This goal is achieved through the return of the injured natural resources and services to baseline and the provision of compensation for interim losses of such natural resources and the services they provide, to other natural resources and/or the public, from the date of the incident until recovery.

Among the parties responsible for the Incident (''Responsible Parties'' or ''RPs'') are Green Atlas Shipping, S.A., the owner of the *M/V New Carissa;* TMM Co., Ltd., its operator; and Benjamin Morgado, the master of the *M/V New Carissa* at the time of the Incident. Green Atlas Shipping, S.A., and TMM Co., Ltd., through their agent, Polaris Applied Sciences, have participated with the Trustees in the performance and/or partial funding of the following emergency restoration and preassessment data collection activities: emergency restoration measures for the western snowy plover, a study by a mutually approved contractor (The Nature Conservancy) to ascertain injuries to the western snowy plover; an analysis by a mutually approved contractor (R. G. Ford Consulting Company) to determine injuries to seabirds and shorebirds; a study to determine lost recreational use; and collection of a variety of natural resource data relevant to the Incident. These RPs, through their agent, Polaris Applied Sciences, also have provided comments to the Trustees on the conduct of and the reports resulting from these activities. The Trustees have invited the Responsible Parties, Green Atlas Shipping, S.A., and TMM Col, Ltd., to participate in the restoration planning phase of the Natural Resource Damage Assessment.

Trustees' Determinations

1. Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 CFR 990.41:

(a) The Trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act, 33 U.S.C. 2702 and 2706(c). The spill of 25,000 to 70,000 or more gallons of oil from the M/V New Carissa beginning on or about February 8, 1999, into the waters of the Pacific Ocean, off the Oregon Coast, approximately 5 kilometers north of the entrance to Coos Bay, was an ''incident'' as defined at 15 CFR 990.30.

(1) The *M/V New Carissa,* a ''vessel'' as defined at 33 U.S.C. 2701(37), spilled the entire quantity of oil involved in this Incident.

(2) The *M/V New Carissa* discharged oil into or upon the navigable waters and the adjoining shorelines, including the waters of the United States adjacent to the Oregon coast and within several Oregon estuaries, including Coos Bay.

(b) The Trustees have determined that:

(1) This Incident was not permitted under federal, state or local law;

(2) The *M/V New Carissa* is not a public vessel, as defined at 15 CFR 990.30; and

(3) The discharge of oil did not occur from an onshore facility subject to the Trans-Alaska Pipeline Authority.

(c) Based upon information gathered during the removal phase of the Incident and the preassessment phase of their Natural Resource Damage Assessment, the Trustees have determined that, due to the amount and type of oil spilled, the location of the spill, and the living and non-living natural resources, and uses in the area at the time of the spill (including but not limited to birds, fish, marine biota, sand sediments, water, and public use of those resources), natural resources under their trusteeship have been

injured, destroyed or lost and use of those natural resources has been lost as a result of the Incident.

2. Determination To Conduct Restoration Planning

The Trustees have determined, pursuant to 15 CFR 990.42 (a), that:

(a) Data collected and analyzed pursuant to 15 CFR 990.43 demonstrate that injuries to natural resources have resulted from the Incident, including but not limited to the following:

(1) Injury to a wide variety and number of seabirds and shorebirds, among them marbled murrelets and western snowy plovers (species listed as threatened under the Endangered Species Act, 16 U.S.C. 1531–1544), and loss or impairment of reproduction potential for these species. The report entitled ''Seabird Mortality Resulting from the *M/V New Carissa* Oil Spill Incident February and March 1999,'' included in the preassessment data report and jointly funded by the Trustees and Green Atlas Shipping, S.A., and TMM Co., Ltd., estimates that more than 2,300 seabirds and gulls were killed by the Incident, among them 262 marbled murrelets. In addition, that same report estimated that 460 to 809 shorebirds were oiled as a result of the Incident.

(2) Lost public recreation use, including lost or diminished opportunities for public camping, wildlife viewing, shellfish harvesting, fishing, off-highway vehicle use, and hiking. The Trustees estimate that between 27,974 and 29,204 public trips were affected by the Incident.

(b) Response actions during cleanup and emergency restoration measures implemented during early stages of the Incident have not adequately addressed the injuries resulting from the Incident. Response efforts included burning a significant portion of the oil on board the ship and cleaning up oil stranded along the beaches. Nevertheless, a substantial amount of oil was released onto the beaches and into the open ocean, resulting in injury to natural resources. Although response measures included collecting and cleaning oiled birds, only a small percentage of the birds affected by the oil were treated; and many birds perished as a result of the Incident. Emergency restoration measures were designed and implemented for the western snowy plover, a threatened species, but such emergency measures for other injured shorebirds and seabirds were not feasible at the time.

(c) Potential assessment procedures to be used to evaluate injuries and to design and implement the appropriate type and scale of restoration for these injured natural resources and services consist of, but are not limited to:

(1) Field studies to ascertain restoration suitability of various tracts of land;

(2) Compiling of demographic data for key species;

(3) Computer modeling of population and mortality data;

(4) Analysis of habitat information to properly scale restoration needs.

(d) Feasible primary and compensatory restoration actions exist to address injuries from the Incident. Restoration activities are expected to focus on seabirds, shorebirds, and lost recreation uses. Restoration could include actions to protect and enhance habitat for seabirds and shorebirds. Specific efforts for wildlife could include acquisition and protection of shorebirds and seabird habitats. To address lost public recreation use, restoration could include development of projects to enhance public access and use of resources not accessible during the Incident. Feasible restoration actions relevant to the injuries may include, but are not necessarily limited to:

(1) Acquisition of seabird and shorebird habitat from willing landowners;

(2) Enhancement/protection of nesting locations of seabirds along the Oregon Coast;

(3) Recreation projects on the North Spit of Coos Bay, in the Dunes National Recreation Area and in the Waldport area, to facilitate visitor use.

Data supporting these determinations are contained in the Record including the Preassessment Report.

Based upon the foregoing determinations, the Trustees have chosen to proceed with restoration planning for this Incident.

Opportunity to Comment

Pursuant to 15 CFR 990.14(d), the Trustees will seek public involvement in restoration planning for this spill through public review of, and comment on, the Draft Restoration Plan. When the Draft Restoration Plan is prepared, the public will be notified of the opportunity to comment. Questions regarding this Notice may be directed to Larry Mangan, Case Manager, *M/V New Carissa* Natural Resource Damage Assessment, Bureau of Land Management at 1300 Airport Lane, North Bend, OR 97459, or by telephone at 541–751–4231 or by telefax transmission at 541–751–4303.

Administrative Record

The Trustees have opened an Administrative Record (''Record'') in compliance with 15 CFR 990.45. The Record will include documents relied upon by the Trustees during the assessment of natural resource damages being performed in connection with the Incident. The Record is on file at the Coos Bay District Office of the Bureau of Land Management, 1300 Airport Lane, North Bend, Oregon. Arrangements can be made to review the Record by contacting Larry Mangan at this address or by calling him at 541–751–4231.

Dated: October 12, 2001.

Elaine Y. Zielinski,

State Director, Oregon/Washington, United States Department of the Interior, Bureau of Land Management, Lead Administrative Trustee, M/V New Carissa, Natural Resource Damage Assessment.

[FR Doc. 01–27911 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–EU; MTM 87193]

Order Providing for Opening of Public Land; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This notice terminates the temporary segregative effect as to 320 acres of public land originally included as part of the proposed Two Crow Exchange.

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM MontanaState Office, P. O. Box 36800, Billings, Montana 59101, 406–896–5052.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2201.1–2(c)(2), the segregation imposed by notation to the records of the lands described below is hereby terminated and the land is made available, subject to other withdrawals and segregations of record, under the public land and mineral laws of the United States:

Principal Meridian, Montana

T. 22 N., R. 21 E.,
Sec. 4, NE¼SW¼ and S½SW¼;
Sec. 5, S½SE¼;
Sec. 9, N½NW¼ and SE¼SE¼.

The areas described aggregate 320 acres in Fergus County.

2. At 9 a.m. on November 7, 2001, the lands shall be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals,

other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 7, 2001, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on November 7, 2001, the lands will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by state law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 2, 2001.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 01–27919 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–02–1420–BJ]

Montana: Filing of Amended Protraction Diagram Plats

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plats of the amended protraction diagram acceptedSeptember 27, 2001, of the following described lands are scheduled to be officially filed in the Montana State Office, Billings Montana, thirty (30) days from the date of this publication.

Tps. 6, 7, 8, and 9 S., Rs. 28, 29, 30, 31, and 32 E.

The plat, representing the Amended Protraction Diagram 10 Index of unsurveyed Townships 6, 7, 8, and 9 South, Ranges 28, 29, 30, 31, and 32 East, Principal Meridian, Montana, was accepted September 27, 2001.

T. 6 S., R. 30 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 6 South, Range 30 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 7 S., R. 29 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 7 South, Range 29 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 7 S., R. 30 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 7 South, Range 30 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 7 S., R. 31 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 7 South, Range 31 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 8 S., R. 29 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 8 South, Range 29 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 8 S., R. 30 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 8 South, Range 30 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 8 S., R. 31 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 8 South, Range 31 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 8 S., R. 32 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 8 South, Range 32 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 9 S., R. 28 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 9 South, Range 28 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 9 S., R. 29 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 9 South, Range 29 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 9 S., R. 30 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 9 South, Range 30 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 9 S., R. 31 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 9 South, Range 31 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

T. 9 S., R. 32 E.

The plat, representing Amended Protraction Diagram 10 of unsurveyedTownship 9 South, Range 32 East, Principal Meridian, Montana, was acceptedSeptember 27, 2001.

A copy of the preceding described plats of the amended protraction diagram accepted September 27, 2001, will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this amended protraction diagram, accepted September 27, 2001, as shown on these plats, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests.

These particular plats of the amended protraction diagram will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: October 5, 2001.

Steven G. Schey,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 01–27920 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–02–1420–BJ]

Montana: Filing of Amended Protraction Diagram Plats

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plats of the amended protraction diagrams acceptedSeptember 14 and 17, 2001, of the following described lands are scheduled to be officially filed in the Montana State Office, Billings Montana, thirty (30) days from the date of this publication.

Tps. 21, 22, 23, and 24 N., Rs. 18 and 29 W.

The plat, representing the Amended Protraction Diagram 33 Index of unsurveyed Townships 21, 22, 23, and 24 North, Ranges 18 and 19 West, Principal Meridian, Montana, was September 14, 2001.

T. 21 N., R. 18 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed Township 21 North, Range 18 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 22 N., R. 18 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed

Township 22 North, Range 18 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 23 N., R. 18 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed Township 23 North, Range 18 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 24 N., R. 18 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed Township 24 North, Range 18 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 21 N., R. 19 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed Township 21 North, Range 19 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 22 N., R. 19 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed Township 22 North, Range 19 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 23 N., R. 19 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed Township 23 North, Range 19 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 24 N., R. 19 W.

The plat, representing Amended Protraction Diagram 33 of unsurveyed Township 24 North, Range 19 West, Principal Meridian, Montana, was accepted September 14, 2001.

Tps. 3 S., Rs. 3, 4, and 5 W.

The plat, representing the Amended Protraction Diagram 50 Index of unsurveyed Townships 3 South, Ranges 3, 4, and 5 West, Principal Meridian, Montana, was September 17, 2001.

T. 3 S., R. 3 W.

The plat, representing Amended Protraction Diagram 50 of unsurveyed Township 3 South, Range 3 West, Principal Meridian, Montana, was accepted September 17, 2001.

T. 3 S., R. 4 W.

The plat, representing Amended Protraction Diagram 50 of unsurveyed Township 3 South, Range 4 West, Principal Meridian, Montana, was accepted September 17, 2001.

T. 3 S., R. 5 W.

The plat, representing Amended Protraction Diagram 50 of unsurveyed Township 3 South, Range 5 West, Principal Meridian, Montana, was accepted September 17, 2001.

Tps. 1, 2, 3, 4, and 5 S., Rs. 10, 11, 12, 13, and 14 W.

The plat, representing the Amended Protraction Diagram 51 Index of unsurveyed Townships 1, 2, 3, 4, and 5 North, Ranges 10, 11, 12, 13, and 14 West, Principal Meridian, Montana, was September 14, 2001.

T. 1 S., R. 10 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 1 South, Range 11 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 1 S., R. 12 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 1 South, Range 12 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 1 S., R. 13 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 1 South, Range 13 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 1 S., R. 14 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 1 South, Range 14 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 2 S., R. 11 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 2 South, Range 11 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 2 S., R. 13 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 2 South, Range 13 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 3 S., R. 11 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 3 South, Range 11 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 3 S., R. 12 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 3 South, Range 12 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 3 S., R. 13 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 3 South, Range 13 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 4 S., R. 11 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 4 South, Range 11 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 4 S., R. 13 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 4 South, Range 13 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 4 S., R. 14 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 4 South, Range 14 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 5 S., R. 11 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 5 South, Range 11 West, Principal Meridian, Montana, was accepted September 14, 2001.

T. 5 S., R. 14 W.

The plat, representing Amended Protraction Diagram 51 of unsurveyed Township 5 South, Range 14 West, Principal Meridian, Montana, was accepted September 14, 2001.

A copy of the preceding described plats of the amended protraction diagrams accepted September 14 and 17, 2001, will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against these amended protraction diagrams, accepted September 14 and 17, 2001, as shown on these plats, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests.

These particular plats of the amended protraction diagrams will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: October 5, 2001.

Steven G. Schey,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 01–27921 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–61880]

Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following described public lands in Esmeralda County, Nevada have been examined and found suitable for classification for lease or conveyance to Esmeralda County under the provision of the Recreation and Public Purposes Act of June 14, 1926, as amended (43U.S.C. 869 *et seq.*).

Mount Diablo Meridian

T. 2 S., R. 39 E.,
Sec. 22, SW¼SW¼SW¼;
Sec. 27, NW¼NW¼NW¼;
Containing 20 acres more or less.

This action will make lands which are not needed for Federal purposes and are identified for disposal in the Tonopah Resource Management Plan, available to support community expansion. Lease or conveyance of the lands for recreational or public purpose use would be in the public interest. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Tonopah Field Station, 1553 South Main Street, Tonopah, Nevada. Lease or conveyance of the lands will be subject to the following terms and conditions:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documents on the official public land records at time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the above described lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands to the Acting Assistant Field StationManager, Tonopah Field Station, P.O. Box 911, Tonopah, NV 89049.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a ballfield and related facilities. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a ballfield and related facilities.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be conveyed until after the classification becomes effective.

Dated: October 1, 2001.

William S. Fisher,

Acting Assistant Field Manager, Tonopah.

[FR Doc. 01–27924 Filed 11–6–01; 8:45 am]

BILLING CODE 4320–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–070–1610–DO]

Notice of Intent to Prepare a Resource Management Plan (RMP) and Environmental Impact Statement (EIS) for the Price Field Office

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM), Price Field Office, Utah, is initiating a planning effort to prepare the Price Field Office Resource Management Plan (RMP). This planning effort involves preparation of an Environmental Impact Statement (EIS). Upon completion, the Price Field Office RMP will replace the existing Price River Management Framework Plan (MFP) and San Rafael RMP. The Price Field Office RMP will establish land use management policy for multiple resource uses on approximately 2.5 million acres of public land and 2.8 million acres of federal mineral resources in the planning area. Sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1711), the National Environmental Policy Act (NEPA) and the regulations in 43 CFR 1600 direct this planning effort. The new RMP is being prepared through coordination with other federal, state, and local agencies, and affected public land users.

DATES: The BLM can best utilize public input if comments are submitted pertaining to land use issues and values within 30 days of this notice. Public meetings are tentatively scheduled for late 2001 or early 2002 in Price, Castle Dale, and Green River, Utah. Specific dates and locations of all scoping meetings will be published in the local newspapers at least 15 days before the meetings.

ADDRESSES: If you wish to comment on potential issues or planning criteria, need additional information, or request to be put on our mailing list, you may do so by notifying the Price Field Office, Bureau of Land Management, Attn: Richard Manus, 125 South, 600 West, Price, Utah 84501.

Comments, including names and addresses of respondents, will be available for public review at the BLM office listed above during regular business hours. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Richard Manus, Field Office Manager or Floyd Johnson, Supervisory Planning Coordinator, Price Field Office, Price Utah, (435) 636–3600.

SUPPLEMENTARY INFORMATION: The planning area will include all of the public land and federal mineral ownership managed by the Price Field Office in Carbon and Emery Counties in eastern Utah. The planning area will encompass the public lands currently managed under the Price River MFP and the San Rafael RMP. This area includes approximately 2.5 million acres of BLM administered surface and 2.8 million acres of federal minerals under federal, state, and private surface in the two county area. The BLM will also include the recently acquired lands west of the Green River that were previously part of the Naval Oil Shale Reserve #2 (NOSR2) including a 1/4 mile scenic easement on the east side of the Green River (approximately 6,500 acres.)

Preliminary issues that could be addressed during development of the Price Field Office RMP include, but are not limited to, the following: (1) Identification and management of summer and winter ranges for mule deer and elk; (2) forage competition between wildlife, wild horses and burros, and livestock; (3) the cumulative effect of land uses and human activities on threatened, endangered or sensitive species and their habitats; (4) management of Off Highway Vehicles (OHVs); (5) revision of Reasonable Foreseeable Development (RFD) scenarios for oil and gas development; (6) concerns about water and air quality; (7) management of cultural and pale ontological resources including the Cleveland-Lloyd Dinosaur Quarry; (8)

fire management opportunities and potential effects on vegetative communities; (9) potential establishment of new Areas of Critical Environmental Concern (ACECs); (10) determinations of wild and scenic river eligibility, suitability, and tentative classifications (wild, scenic, or recreational); and (11) potential establishment of Wilderness Study Areas (WSAs). These preliminary issues are not final and may be added to and refined through the public participation process. As part of the land use planning process, the FLPMA mandates that BLM give priority to the designation and protection of ACECs when developing and revising land use plans. As part of the Price Field Office RMP planning effort, BLM will determine what areas, if any, should be designated as ACECs. As a result of a previous planning effort for the San Rafael RMP, 13 nominations have already been recorded, evaluated, and designated as ACECs. It is proposed that these areas be brought forward into the Price Field Office RMP. In addition, BLM is requesting additional nominations for areas that the public may see as being appropriately managed as ACECs.

Public nominations are also being sought for those rivers which may be eligible for inclusion into the National Wild and Scenic River System. In order to be considered, the body of water must be free flowing and contain at least one outstandingly remarkable value. The river can be any size and must be existing or flowing in a natural condition without major modification. All nominations should be accompanied by detailed maps, descriptions of the river segment, and rivers related values. Rivers will also be tentatively classified as wild, scenic, or recreational. An interdisciplinary team in coordination with planning partners will make preliminary determinations as to eligibility and classification of river segments. These preliminary determinations will be made available for public review prior to issuance of the Draft RMP/Draft EIS.

Preliminary Planning Criteria that have been identified to guide resolution of the issues that will be considered in the RMP are as follows: (1) The plan will recognize the existence of valid existing rights, (2) Lands covered in the RMP will be public lands, which include split estate lands, managed by BLM. Decisions in the RMP will be made only on lands managed by BLM, (3) The BLM will use a collaborative and multi-jurisdictional approach, where possible, to jointly determine the desired future condition of public lands, (4) The BLM will make all possible attempts to ensure that its management prescriptions and planning actions are as complimentary as possible to other planning jurisdictions, within the boundaries described by law and policy, (5) The BLM will consider the management prescriptions on adjoining lands to minimize inconsistent management. To the extent possible, BLM will coordinate inventories, planning, and management programs with other federal, state, tribal, and local governments and agencies, (6) Management prescriptions will focus on the relative values of resources and not necessarily the combination of uses that will give the greatest economic return or economic output, and (7) To the extent possible, the BLM will use current scientific information, research, new technologies and the results of resource assessments, monitoring and coordination to determine appropriate local, and regional management strategies that will enhance or restore impaired ecosystems.

Complete records of all phases of the planning process will be available for public review at the Price Field Office throughout this planning effort.

This notice announces the beginning of scoping. The Price Field Office is seeking public involvement in the earliest possible stages of this planning endeavor to enhance collaboration. If you have information or concerns you would like to share, including ideas or opportunities that could enhance data collection, inventories, or formulation of issues that could be addressed in the plan, please submit them to the above address.

Alternatives will be developed and analyzed to resolve the issues that are identified during the scoping process. A Draft RMP/Draft EIS will be published and made available for public review.

Dated: September 6, 2001.

Robert A. Bennett,

Acting State Director.

[FR Doc. 01–27922 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ; ES–51229, Group 164, Wisconsin]

Notice of Filing of Plat of Survey; Wisconsin

The plat of the dependent resurvey of the Eagle Bluff Light Station in the fractional NE ¼ of section 17, Township 31 North, Range 27 East, 4th Principal Meridian, Wisconsin, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on December 17, 2001.

The survey was requested by the Bureau of Land Management, Milwaukee Field Office.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., December 17, 2001.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: October 19, 2001.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 01–27915 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–BJ–4377; ES–51228, Group 156, Wisconsin]

Notice of Filing of Plat of Survey; Wisconsin

The plat of the dependent resurvey of a portion of the south and east boundaries, a portion of the subdivisional lines, and the subdivision of sections 24, 25, and 36, Township 39 North, Range 9 West, 4th Principal Meridian, Wisconsin, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on November 28, 2001.

The survey was requested by the Bureau of Indian Affairs.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., November 28, 2001.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: September 27, 2001.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 01–27916 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–1420–BJ–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

The plats of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., October 1, 2001.

The plat representing the dependent resurvey of the west boundary and the subdivisional lines, T. 52 N., R. 74 W., Sixth Principal Meridian, Wyoming, Group No. 653, was accepted August 20, 2001.

The plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of sections 28 and 33, T. 55 N., R. 91 W., Sixth Principal Meridian, Wyoming, Group No. 654, was accepted September 28, 2001.

The plat representing the dependent resurvey of the west boundary and portions of the south and north boundaries and subdivisional lines, and the subdivision of certain sections, T. 54 N., R. 91 W., Sixth Principal Meridian, Wyoming, Group No. 654, was accepted September 28, 2001.

The plat representing the dependent resurvey of portions of the south and west boundaries and the subdivisional lines, T. 52 N., R. 75 W., Sixth Principal Meridian, Wyoming, Group No. 671, was accepted September 28, 2001.

The plat representing the dependent resurvey of portions of the west boundary and subdivisional lines, and the subdivision of sections 19 and 20, T. 52 N., R. 91 W., Sixth Principal Meridian, Wyoming, Group No. 672, was accepted September 28, 2001.

Dated: October 1, 2001.

John P. Lee,

Chief Cadastral Survey Group.

[FR Doc. 01–27909 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 79422]

Notice of Proposed Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy has filed an application to withdraw approximately 20,808 acres of public land for a period of 20 years, for a disposal cell for uranium mill tailings in Grand County, Utah. This notice segregates the lands for up to 2 years from location and entry under the United States mining laws subject to valid existing rights.

DATES: Comments must be received on or before February 5, 2002.

ADDRESSES: Comments should be sent to the Moab Field Office Manager, 82 East Dogwood Avenue, Moab, Utah, 84532.

FOR FURTHER INFORMATION CONTACT: Mary von Koch, Realty Specialist, Moab Field Office, 82 East Dogwood Avenue, Moab, Utah 84532, (435) 259–2128.

SUPPLEMENTARY INFORMATION: On August 30, 2001, an application was received from the Department of Energy to withdraw the following described public lands from location and entry under the United States mining laws, subject to valid existing rights:

Salt Lake Meridian

Crescent Area:

T. 21 S., R. 19 E.,
Secs. 20 and 21;
Sec. 22, those lands south of the Bookcliffs;
Sec. 23, those lands south of the Bookcliffs;
Sec. 24, lots 1 to 4, inclusive, W½E½, those lands in the NW¼ south of the Bookcliffs, and SW¼;
Secs. 25 to 29, inclusive.

The area described contains approximately 5,934 acres in Grand County.

Klondike Area:

T. 23 S., R. 19 E.,
Sec. 13, those lands in the NW¼ and S½ lying west of US Highway 191;
Sec. 14, NE¼, N½NW¼, and S½;
Secs. 20 to 23, inclusive;
Sec. 24, those lands in the NE¼ lying west of US Highway 191, W½, and SE¼;
Secs. 25 to 29, inclusive;
Secs. 33, 34, and 35.

T. 24 S., R. 19 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, SW¼, NW¼SE¼, and S½S½SE¼SE¼;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12.

T. 23 S., R. 20 E.,
Sec. 30, lots 2, 3, and 4, and those lands in lots 7, 8, and 15 lying west of US Highway 191;
Sec. 31, lots 1 to 4, inclusive.

T. 24 S., R. 20 E.,
Sec. 6, lots 3 and 6, W½SE¼, and SE¼SE¼;
Sec. 7, lots 1 to 4, inclusive, and E½;
Sec. 8, those lands in the NE¼NW¼ and the SE¼ lying west of US Highway 191, NW¼NW¼, S½NW¼, and SW¼.

The area described contains approximately 14,874 acres in Grand County.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing, by the date specified above, to the Moab Field Office Manager.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is canceled or the withdrawal is approved prior to that date.

Public meetings will be held in connection with the proposed withdrawal during the preparation of the environmental impact statement that will analyze options for disposal of the uranium tailings. A notice of the time and place will be published by the U.S. Department of Energy in the **Federal Register** at least 30 days before the scheduled date of the meetings.

Dated: October 10, 2001.

Margaret Wyatt,

Moab Field Office Manager.

[FR Doc. 01–27923 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[Arizona, INT–DES 01–38]

Reach 11 Recreation Master Plan, Central Arizona Project, Arizona

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of and public hearing for a draft environmental impact statement (EIS).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA, the Bureau of Reclamation (Reclamation), in conjunction with the City of Phoenix (City), has prepared a draft EIS for a Recreation Master Plan for the Reach 11 Recreation Area (Reach 11), located in the northeast portion of the City, Maricopa County, Arizona. The draft EIS describes the anticipated environmental effects associated with the proposed approval and implementation of a recreation master plan for a 1,500-acre area adjacent to the Central Arizona Project (CAP) canal, between Cave Creek and Scottsdale

roads. The land is owned by Reclamation and is managed for recreational purposes by the City's Recreation and Library Department (PRLD) under a 1986 land use agreement. The draft EIS describes in detail a proposed recreation master plan and two action alternative master plans that could be approved and implemented. A No Action Alternative is also described, which provides a baseline for comparing the impacts of the three action alternatives. A public hearing will be held to receive comments from interested individuals and organizations regarding the adequacy of the draft EIS in describing the anticipated environmental impacts from the proposed project.

DATES: A public hearing is scheduled for December 11, 2001, from 6:30 to 9:30 p.m. A 60-day public review and comment period begins with the filing of the draft EIS with the Environmental Protection Agency. Written comments must be received no later than January 18, 2002.

ADDRESSES: The public hearing will be held at Paradise Valley Community Center, 17402 North 40th Street, Phoenix, Arizona.

Send written comments to Mr. Bruce Ellis, Chief, Environmental Resource Management Division, Bureau of Reclamation, Phoenix Area Office (PXAO–1500), PO Box 81169,Phoenix, AZ 85069–1169; fax number (602) 216–4006.

The draft EIS document is available on the Internet at *http://www.apo.lc.usbr.gov.* A copy of the draft EIS is also available upon request from Ms. Janice Kjesbo, Bureau of Reclamation, Phoenix Area Office (PXAO–1500), PO Box 81169, Phoenix, AZ 85069–1169, telephone (602) 216–3864, faxogram (602) 216–4006. A copy of the draft EIS is also available for public inspection and review at the libraries listed under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: Questions regarding the draft EIS should be directed to Ms. Sandra Eto, Bureau of Reclamation, Phoenix Area Office (PXAO–1500), PO Box 81169, Phoenix, AZ 85069–1169, telephone (602) 216–3857.

SUPPLEMENTARY INFORMATION: Reclamation is proposing to approve a new Recreation Master Plan for Reach 11, managed for recreational purposes by the PRLD. The current master plan was approved in 1987. The City and Reclamation determined a comprehensive planning effort for a new master plan should be carried out, due to the major population growth that has occurred and future growth anticipated for the area. This effort included conducting a recreation needs assessment to inventory existing facilities in the vicinity of Reach 11, and evaluating needs based upon established park standards, existing capacity, and public interest in or opposition to various recreation uses. The purpose and need for a new Recreation Master Plan is to optimize recreational use of Reach 11 based upon the needs of the City and community, while ensuring compatibility with the primary flood control function of Reach 11. A master plan would accommodate and respect the full range of current and future recreation demands of this growing area of Phoenix, Arizona. The draft EIS considers three alternative master plan scenarios. All three provide a level of development established for a City district park. Under the Proposed Action, high-demand recreation needs would be balanced with passive recreation uses and maintenance of quality habitat areas. Two other alternative action alternatives are considered: one that would provide less active recreation-oriented development, and that emphasizes passive recreation-oriented activities (Alternative 1), and one that would maximize development of active-recreation oriented recreation facilities (Alternative 2). The No Action Alternative assumes the existing 1987 master plan, (which does not meet current PRLD district park standards), would continue to be implemented. The alternative ultimately selected and implemented is expected to be developed in phases by PRLD, as funding becomes available.

Copies of the draft EIS are available for public inspection and review at the following locations:

- Department of the Interior, Natural Resources Library, 1849 C Street, NW., Washington, DC 20240
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225
- Arizona Department of Library Archives and Public Records, 1700 W. Washington St., Phoenix, AZ 85007
- North Central Regional County Library, 17811 N. 32nd St., Phoenix, AZ 85032
- Phoenix Public Library (Burton Barr Central), 1221 N. Central Ave., Phoenix, AZ 85004
- Government Document Service, Arizona State University, Tempe, AZ 85287
- Arizona State University—West Library, 4701 W. Thunderbird Rd., Glendale, AZ 85306

Written comments received by Reclamation become part of the public record associated with this action. Accordingly, Reclamation makes these comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: October 24, 2001.

V. LeGrand Neilsen,

Deputy Regional Director.

[FR Doc. 01–27881 Filed 11–6–01; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Office of Community Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: New Collection, Tribal Resource Grant Program Application.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 66, Number 147, pages 39537 on July 31, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 7, 2001. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of

Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* Tribal Resources Grant Program Application.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form:* None. Office of Community Oriented Policing Services, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federally Recognized Tribal Governments.

Other: None. The information collected will be used by the COPS Office to determine whether Federally recognized Tribal Governments are eligible for three year grants specifically targeted to meet the most serious needs of law enforcement in Indian communities. The grants are meant to enhance law enforcement infrastructures and community policing efforts in these communities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 200 respondents at 9 hours per response. The information will be collected annually from each respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are 1,800 annual burden hours associated with this information collection.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: November 1, 2001.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–27964 Filed 11–6–01; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF LABOR

Employment and Training Administration

Disability Employment Grant Program Funded Under the Workforce Investment Act Title I

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of availability of funds and solicitation for grant applications (SGA).

This Notice Contains All of the Necessary Information and Forms Needed to Apply for Grant Funding.

SUMMARY: The U.S. Department of Labor, Employment and Training Administration (DOL/ETA), announces the availability of approximately $6 million in competitive grant funds for multi-state employment and training projects serving people with disabilities. This skill training grant program is funded using Workforce Investment Act Title I, section 171 funds and targets projects providing multi-site training and other employment services to individuals with disabilities that result in long-term, unsubsidized employment.

DATES: The closing date for receipt of applications under this announcement is December 21, 2001 at 4 p.m. Eastern Standard Time (EST) at the address below:

ADDRESSES: Applications must be mailed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Jacquelyn Carter, SGA/DFA 02–100. 200 Constitution Avenue, NW, Room S–4203, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Questions should be faxed to Jacquelyn Carter at 202–693–2879 (this is not a toll-free number). All inquiries should include the SGA number DFA–02–100, and a contact name, fax, and telephone numbers. This solicitation is also being published on the Internet at ETA's home page at *http://www.doleta.gov* and at ETA's disAbility Online website at *http://wdsc.doleta.gov/disability/* (click on ''Grantee Communication'' to access these forms). Award notifications will also be published on both the ETA home page and the disAbility Online website.

SUPPLEMENTARY INFORMATION:

A. Authority

Funds made available for this Solicitation for Grant Applications are authorized under the Workforce Investment Act of 1998, section 171 (b), (c) and (d). Approximately $6 million of the total funds available for this grant award are dislocated worker demonstration and pilot project funds.

This announcement consists of five parts:

Part I—Application Process
Part II—Background and Purpose
Part III—Review Process, Evaluation Criteria and Statement of Work
Part IV—Government Requirements, and
Part V—Definitions

Part I—Application Process

A. Eligible Applicants

Private non-profit entities, including faith-based organizations, are eligible to receive grant funds under this award. Non-profit disability organizations with national scope and the capacity to administer multi-state training and employment programs are encouraged to apply. Entities described in section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this SGA. The Lobbying Disclosure Act of 1995 as amended, 2 U.S.C. 1611 prohibits the award of federal funds to 501(c)(4) entities engaged in lobbying activities. Applicants are encouraged to include partnerships with community-based and faith-based organizations at the local level. Such partnerships should be clearly identified in the application.

Applicants must operate or propose to operate in two or more states. Applicants should provide documentation of knowledge and/or experience in the following areas:

—Overcoming barriers to employment experienced by individuals with disabilities;

—ability to conduct training, placement, and follow-up services; and

—management and accountability structure necessary to ensure the integrity of the funds requested (by meeting the standards for financial management and participant data systems as specified in 29 CFR part 95). Only one proposal per applicant/organization(s) is permitted. If an applicant/organization submits two separate proposals, both proposals will be rejected.

B. Submission of Proposals

Applicants must submit three (3) copies with original signatures. A proposal shall consist of two (2) separate and distinct sections: Section I—Financial Proposal and Budget Information Form; and Section II—Technical Proposal.

Section I, the Financial Proposal shall contain the SF–424, ''Application for Federal Assistance,''(Appendix A), and Budget Information Form (Appendix B). In addition, the budget shall include on a separate page a detailed cost analysis of each line item. Administrative costs cannot exceed 15 percent of total proposed costs. Administrative costs are those identified in 20 CFR 667.220. Approval of a budget by DOL is not the same as approval of actual costs. The Catalog of Federal Domestic Assistance number is 17.261. Applicants shall indicate on the SF–424 the organization's IRS status, if applicable. According to the Lobbying Disclosure Act of 1995 as amended, 2 U.S.C. 1611, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant or loan. The individual signing the SF–424 on behalf of the applicant must represent the responsible financial and administrative entity for a grant should that application result in an award. The budget must include, on a separate page, a detailed breakout of each line item.

Section II, the Technical Proposal, will demonstrate the applicant's capabilities in accordance with the Statement of Work in Part III of this solicitation. This must be organized to follow the evaluation criteria. No cost data or reference to costs shall be included in the Technical Proposal.

In addition, the Technical Proposal shall be limited to 20 doubled-spaced, single-side, 8.5 inch x 11 inch pages with 1 inch margins. Appendices shall not exceed 20 pages, and may include charts, graphs, staff resumes, composition of advisory boards, and other supporting documents. Text type shall be 12 point or larger. Applications not meeting these requirements will not be considered. The Technical Proposal must also contain participant, activity and outcome information, and must include the process the applicant will use for implementing the project and a timeline outlining the project activities.

C. Hand Delivered Proposals

It is preferred that applications be mailed at least five days before the closing date (see ''Late Proposals'' section below). To be considered for funding, hand delivered proposals must be received at the address identified above by 4 p.m. (Eastern Standard Time) December 21, 2001. All overnight express mail will be considered to be hand delivered and must be received at the designated place by the specified time on the closing date. Grant applications transmitted by electronic mail, telegraph or facsimile will not be considered. Failure to adhere to the above instructions will be a basis for a determination of non responsiveness.

D. Late Proposals

Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made and it was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application submitted in response to a solicitation requiring receipt of applications by the 20th of the month must have been mailed/post marked by the 15th of that month); or was sent by the U.S. Postal Service Express Mail Next Day Service, Post Office to Addressee, not later than 5 p.m. at the place of mailing two working days prior to the deadline date specified for receipt of applications in this SGA. The term ''working days'' excludes weekends and Federal holidays.

The ''post mark'' only acceptable evidence to establish the date of mailing of an application received after the deadline date for the receipt of proposals sent by the U.S. Postal Service and on the original receipt from the U.S. Postal Service. The term ''post marked'' means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service.

E. Withdrawal of Applications

Applications may be withdrawn by written notice or telegram (including mail gram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

F. Scope of Award

DOL/ETA anticipates making awards that range from $300,000 to $500,000. Proposals with costs exceeding $500,000 will not be considered. WIA Title I Dislocated Worker funds are included in the total funds available. Therefore, some awards will be funded in whole, or in part, with WIA Title I Dislocated Worker funds based on the extent to which the proposal is targeted to disabled individuals who also qualify as a dislocated worker under Title I (see Definitions). Awards will be made on a competitive basis.

G. Period of Performance

The initial period of performance will be twelve (12) months from the date of execution by the Government. The Department may elect to exercise its option to extend these grants for up to two additional option years for a total not to exceed 36 months based on (1) the availability of funds, (2) grantee performance including achieving a 50% placement rate during the grant period, and (3) project needs. The Department reserves the right to impose additional requirements or refinements in program design if the project is extended for a second and/or third year grant period.

Part II. Background and Purpose

A. Background

DOL/ETA has provided grant awards to non-profit organizations that provide employment and training services to persons with disabilities for the past twenty-five years. Disability Employment Grants totaling $6.8 million were awarded in 1998 to fifteen organizations for a three year grant period using Job Training Partnership Act (JTPA) Title III and IV funds. During the FY 1999 grant period, Disability Employment Grants served more than 3,500 individuals with disabilities and placed 1,500 in unsubsidized, competitive employment. The Disability Employment Grant program is now authorized under WIA at section 171 (b), (c) and (d), 29 USC 2801(31).

This initiative builds upon other ETA initiatives, including the Work Incentive Grants, which are designed to enhance service delivery throughout the National One-Stop delivery system for people with disabilities, and the Disability Information Technology (IT) Initiative,

which focuses on expanding opportunities for information technology training and improving access to employment in the information technology industry for people with disabilities. It is also supportive of President Bush's New Freedom Initiative by increasing workforce, employment, and educational opportunities for people with disabilities, as well as increasing access to assistive and universally designed technologies. This includes support of Executive Order 13217: Community-Based Alternatives for Individuals with Disabilities.

For more information on ETA funded grants and other ETA initiatives addressing the employment of people with disabilities, visit ETA's disAbility Online web site at: *http://wdsc.doleta.gov/disability/*.

Several other grant initiatives totaling $10.3 million have been awarded from the Department of Labor's Office of Disability Employment Policy (ODEP). These include Customized Employment Grants, Innovative Demonstration Programs for WIA-assisted Youth, High-School/High Tech Start-up and Realignment Grants, a WIA Disability Technical Assistance Consortia Grant and Disability Youth Consortia Grant. The Customized Employment Grants are distinct from ETA's Disability Employment Grants in that their focus centers on getting local Workforce Investment Boards to develop comprehensive, strategic, and cutting-edge models of service delivery for individuals with disabilities who have never been employed, whose experience is limited to subsidized employment, or who have traditionally been considered unemployable. Please go to: *http://www.dol.gov/dol/odep/* for more information on the ODEP grants and other programs administered by ODEP.

While the unemployment rate remains at less than 5 percent, the unemployment rate for working-age adults with disabilities has remained at approximately 70 percent for at least the past 12 years. Only 26 percent of working age adults with significant disabilities have a job or a business compared to 82 percent of those without disabilities (U.S. Bureau of the Census, Survey of Income and Program Participation, 1997), and among workers with college degrees only 52 percent of those with severe disabilities reported labor market activity compared to 90 percent of those with no disability—a gap of 38 percentage points.

Title IV of the Workforce Investment Act, which amends the Rehabilitation Act, included several findings relating to ethnic and racial minorities as traditionally under-served populations in the vocational rehabilitation system (29 U.S.C. 718). Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for Native Americans is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled. According to the U.S. Census Bureau's 1994–1995 data, approximately 85.5 percent of African-Americans with severe disabilities and 75.4 percent of Hispanics with severe disabilities are not working. Among the reasons for the disproportionately high rate of unemployment are disparities in the services provided to minorities with disabilities, fewer educational opportunities, poor outreach to minority communities, and inadequate transportation and housing.

B. Purpose

The primary purpose of this multi-state Disability Employment Grant award is to implement strategies to improve long term quality employment outcomes, and skills attainment that address the needs of people with disabilities, particularly those with severe disabilities. In this program, the quality of employment outcomes is more important than the number of placements. At the same time, grant entities will be held accountable for achieving minimum placement goals identified in this SGA.

Of particular importance are skills and employment training that enable individuals to move to unsubsidized employment. Innovation, coordination, and partnerships, non-duplication of existing services, and leveraging of scarce resources are also important factors. In addition, DOL is interested in identifying successful project designs that can be shared and replicated as state workforce system changes proceed. Therefore, applications should represent strong linkages with adult, dislocated worker and youth programs operating under the WIA such as Job Corps, Youth Opportunity Grants, Migrant and Seasonal Farm Worker programs and Indian and Native American programs.

DOL has identified the following priorities for the purposes of this SGA:

- Strategies for high quality, long term employment of racial and ethnic minorities with significant disabilities;
- Strategies for employment of SSI and SSDI beneficiaries;
- Strategies for community-based alternatives for individuals with disabilities that support Executive Order 13217;
- Innovative approaches utilizing technology, including assistive technology, innovative training and workplace strategies or other approaches (e.g., distance learning, telecommuting, and self employment and small business ownership) which result in significant employment outcomes;
- Program designs which incorporate integrated service delivery for people with disabilities in One-Stop Center WIA Title I programs;
- Strategies involving strong ties to, and commitment from, corporate and business entities; and
- Service delivery which emphasizes on-the-job training and internship approaches in corporate and business environments.

Other areas that may be addressed in the application include: linkages with other public (national, state and local) and/or private delivery systems; linkages with disability consumer organizations (e.g., independent living centers), and with other entities that address significant employment barriers, and linkages with existing service strategies that build on and facilitate other systemic changes impacting individuals with disabilities (e.g., DOL Work Incentive Grant programs, Welfare-to-Work implementation, Medicaid Infrastructure Grants).

Part III. Review Process, Evaluation Criteria and Statement of Work

A careful evaluation of applications will be made by a technical review panel who will evaluate the applications against the established criteria listed in this SGA. The panel results are advisory in nature and are not binding on the Grant Officer. The Grant Officer may consider any information that comes to his or her attention, and will make final award decisions based upon what is most advantageous to the Federal Government in terms of geographic mix, technical quality, justification and evidence of the ability to perform activities included in the management and design of the projects, and the applicant's past performance. The Government may elect to award the grant with or without discussions with the offeror. In situations without discussions, an award will be based on the applicant's signature on the SF–424, which constitutes a binding offer.

Proposals will be evaluated against the following criteria:

A. Project Design—Activities and Outcomes

(40 points)
B. Coordination and Linkages (20 points)
C. Disability Employment Grant Participants (20 points)
D. Management and Administration (20 points)

A. Project Design—Activities and Outcomes (40 points)

1. Purpose and Scope of the Project

Describe the specific purpose or purposes of the proposed project. Explain how the proposed project will be applicable to disability issues of national scope. Describe the potential for replication in adult, dislocated worker, and WIA national programs under the WIA Title I. Explain the impact of the project on the One-Stop Center system.

Describe how faith-based organizations will be included as partners in outreach and service delivery or whether there will be sub-grants or contracts with local faith-based entities.

Project designs should include local community demonstration sites in two or more states and identification of successful employment and career strategies for specific or multiple types of disabling conditions. Projects should be designed to: test the effectiveness of project strategy in diverse state systems and potential for replication; build on a variety of National efforts involving individual state workforce development systems; and allow for analysis of different state/local service structures. Minimum cost per site shall be $75,000.

2. Training and Supportive Services

The program design should describe core, intensive and training services to be provided from the time of participant selection through placement in unsubsidized employment and follow-up. The design should describe in detail the kinds of training that will be offered, the method by which the training will be provided, and whether training will culminate in certification.

Design description should include a rationale for additional activities and services in terms of overall project design, overcoming employment barriers of planned participants, and achieving quality employment outcomes. Narratives should provide a clear understanding of services and supports needed for successful placement and job retention.

The program design must provide information on planned activities, placement, and services to participants, including the number of planned participants to be served. Identify what types of core, intensive and training services will be provided to participants. Identify what other sources of funds will be leveraged for training or supportive services to participants as part of the overall project design but will not be funded by the ETA Disability Employment Grant (e.g. Individual Training Accounts, Youth Opportunity, Vocational Rehabilitation, or Adult Literacy funds) must also be identified.

Project designs must include on-the-job training and internship or self-employment strategies. Project design must describe why these are effective strategies for the client group being served and how many participants are expected to receive specific services (e.g., how many will be in on-the-job training). Private sector employer commitment to on-the-job positions should be identified.

The design description must also include strategies related to training in the information technology skills sector, such as software design, network applications, and service repair technicians. The description provided should be clear on the complexity of the training and expectations for higher salaried employment outcomes with longer range career potential. Please note, training on Microsoft WORD, Word Perfect, Lotus or other basic computer familiarity training is not sufficient to meet this criterion.

3. Employment Outcomes

Available Jobs. Based on labor market information, project design should describe the types of jobs that are expected to be available to participants upon completion of training and placement services, including prevailing wage levels, career potential, and opportunities for advancement. Information on the number and type of jobs and the availability of qualified workers must also be included. The project design should also identify how and why job placement and retention for participant group will more likely occur as a result of the proposed project. Sources of labor market information should be identified, and may include the Bureau of Labor Statistics, O*NET, America's Career Kit, State Occupational Information Coordinating Committees. Other sources of information may include business and trade associations, employers, and other representatives of the local business community.

Planned Placements. The project design must indicate how many placements in unsubsidized, competitive employment are expected to result from activities at each site. The quality of job placements in terms of entry wage or salary levels, long-term career potential, and the long-term growth of the occupations under consideration in the local area, must also be described. Information on participant flow from intake to assessment, to placement should be provided indicating clearly when placement will occur. Program design should also include a plan for post-placement follow-up at 90 days, 180 days, and 12 months.

Planned outcome information should be provided, including site specific information on: (1) Number of terminees completing program; (2) number of placements in unsubsidized employment; (3) number of placements in full time employment (35 hours per week or more); and (4) the average hourly wage, and placements with durations of 180 days or more. This information should include planned employment outcomes for SSI/SSDI beneficiaries and the impact of the employment on their ability to leave SSI/SSDI benefit rolls.

Applicants are requested to describe methods of ongoing assessment of ''customer satisfaction'' and how results will be used in project operation. The Department of Labor expects that applicants will achieve an entered employment rate of 50 percent. Continued project funding will take achievement of this goal into account. Grantees will be required to submit quarterly Activity and Placement Reports (APR) on the number of participants being served, activities and services provided, and placement outcomes (see Part IV. Government Requirements). Disability Employment Grant reporting requirements are provided under the ''Grantee Communications'' section of the disAbility Online web site at: *http://wdsc.doleta.gov/disability/*

Special Wage Waivers Under Fair Labor Standards Act. Employment in jobs, and/or related training, approved for Special Minimum Wage Certificates under section 14(c) of the Fair Labor Standards Act (FLSA), as amended (29 U.S.C. 214) and its implementing regulations at 29 CFR part 525 will not be considered as an allowable activity or outcome. Organizations receiving FLSA special wage certifications must provide assurances and verification that FLSA special wage training and placement are not incorporated within proposed project design. Employment outcomes should be at the prevailing wage and under no circumstances, below the applicable Federal or State minimum wage, whichever is higher.

Because the information technology industry currently represents close to 50 percent of the nation's economic

growth, applicants should consider how they might initiate the development of new collaborative processes at the regional and local levels, thereby leveraging private sector, school, and local government resources in order to expand workplace opportunities for individuals with disabilities.

B. Coordination and Linkages (20 points)

Descriptions must detail any linkages with State and Local Workforce Investment Boards, State/local One-Stop Career Center systems, Adult, Dislocated Worker and Youth programs authorized under the Workforce Investment Act, Job Corps Centers, Welfare-to-Work programs, Department of Education programs such as Vocational Rehabilitation, and training programs authorized under the U.S. Department of Housing and Urban Development and under the Department of Agriculture. Proposals must demonstrate a significant integration of services to people with disabilities in the One-Stop system, such as using Individual Training Accounts to support training objectives, joint funding of on-the-job training by One-Stop partner programs, including Vocational Rehabilitation, or other significant collaborative activities which leads to integrated services for people with disabilities in One-Stop Centers.

Applicants should indicate the impact of the proposed project on system changes underway and how non-grant funds are being leveraged. Funds or resources to be contributed to the project by the applicant and/or partnership entities should also be identified. Applications should provide information on how the project adds value to the workforce system from a national perspective (e.g., fills a gap in policy or service delivery approach), and the potential for replication and dissemination to the workforce system at large.

The design description should address the role of apprenticeship programs under the U.S. Department of Labor's Apprenticeship Training, Employment and Labor Services (ATELS), if applicable. It should also describe the role of the business community, including business advisory councils, State or Local Business Leadership Networks (BLNs) and labor organizations to the project if applicable, the extent to which they may provide internships or possible employment for successful participants, the extent to which they may serve as mentors, and their input into decisions on training and identification of trends and skill shortages. Applications demonstrate a strong commitment by the corporate and business sector to provide on-the-job training, internships, mentoring or other substantive contributions to the grant project.

Other coordination efforts should address major employment obstacles such as insufficient medical coverage and/or other barriers to employment (e.g., transportation, personal assistance needs, and housing). Evidence should be presented demonstrating the cooperation of coordinating entities and the program design should include a reasonable method of assessing and reporting on the impact of that coordination. Consultation with and/or review by appropriate labor organizations is encouraged and should be documented.

Applicants should describe linkages to DOL's Work Incentive Grant programs, new programs available through DOL's Office on Disability Employment Policy if applicable, and other work incentive programs (e.g., programs under Social Security's Ticket to Work and Work Incentives Improvement Act, and Medicaid Infrastructure Grants).

C. Disability Employment Program Participants (20 points)

1. Target Population

Participants for the proposed project must be individuals with disabilities (i.e., physical, sensory, emotional, or mental functional impairments) as defined in section 3 of the Americans with Disabilities Act at 42 U.S.C. 12102. The characteristics of the client population to which the proposal is targeted should be described as applicable in terms of: (1) Specific type(s) of disability, (e.g., psychiatric disorders, neurologic disorders); (2) specific subgroup of disabled population, (e.g., minority, youth, older workers); (3) why the project design will result in quality career and/or employment outcomes; and (4) what innovative and coordinated approaches will be used to serve the target population. It is anticipated that a significant percentage of the population will require the use of assistive technology in both training and in the workplace.

National attention has been made in recent years to the lack of services available to ethnic and racial minorities and the fact they experience disability in disproportionately greater numbers. Therefore, applicants are encouraged to design proposals to provide 50 percent or more of grant services to this group of people. Likewise, it is also known that less than 1 percent of SSI and SSDI beneficiaries are able to get off benefits and achieve self-sustaining employment in the workplace. Reliance on public supports is devastating personally to those limited to public resources for their livelihood and is also detrimental from a public fiscal policy perspective. Applicants are encouraged to include strategies that direct grant resources to training and employment services for SSI and/or SSDI participants.

Proposals must also provide the following planning information on the participants to be served in project design, in total and by project site:

- The number of participants,
- The age range of participants (e.g., under 22, 23–50, 51–65),
- The number of participants who receive Supplemental Security Income and/or Social Security Disability Income (SSI/SSDI),
- The number and percent of participants that will be qualified as dislocated workers.

Describe any innovations in the proposed project, including (but not limited to) innovations relating to the target population, delivery of services, training methods, job development, or job retention strategies. Describe new directions or approaches to address significant unemployment levels of people with disabilities. Explain how the proposed project:

(1) Will be applicable to disability issues of national scope;

(2) Is similar to or differs from the applicant's prior and current activities; and

(3) Does not duplicate existing employment and training programs.

Applicants may also provide other information about participants considered important such as educational level, and number of people of minority or ethnic diversity.

2. Outreach and Recruitment

Describe how outreach and recruitment addresses the overall design of the project. Outreach and recruitment may address public service announcements, use of media, use of community-based organizations, and other service groups. Identify how workforce development systems, disability consumer organizations, and the business community will be used in the recruitment process. Describe how the target population will be recruited for participation at each site.

3. Eligibility

Describe the eligibility process for project participants, including the process for determining whether a participant is an individual with a

disability and those with a significant disability (see Definitions).

4. Assessment

Describe the process for evaluating participants' skills and education levels, career interests, accommodation requirements, training and services, and other barriers and needs. Narrative should identify whether assessment will be conducted by the awardee or another service provider. (Applicants should indicate whether and how the Test of Adult Basic Education (TABE) or an alternative assessment tool will be used to assess reading, mathematical skills, and other employment readiness skills to participate in this project, as applicable. Applicants should include how the project will address the remedial or preparatory training needs of the participants and how the project will address possible learning disabilities. Please note, the implementation of these assessments may require reasonable accommodation and use of Assistive Technology).

D. Management and Administration (20 points)

1. Management Structure

Describe the management structure for the proposed project. Applicants must provide a staffing plan showing each position and the percentage of time assigned to the project. Provide an organizational chart showing the relationship between the management and operational components of the project and the overall organization. Include staff and operations projected for the project. Include resumes of current key staff. For each of the key staff not identified at the time of application, provide a job description or the qualifications sought for the position. Specific information on staff and organizational structure may be provided in the Appendix.

2. Program Integrity and Public Accountability

Describe the mechanisms to be used to ensure financial and program accountability in record keeping and reporting. The design must demonstrate oversight of project implementation and progress benchmarks. Describe how the project will keep records of activities and satisfy the administrative requirements set out under 29 CFR parts 95—99, as applicable.

The design must include a comprehensive discussion describing in detail the types of information to be collected, methods and frequency of collections, and ways information will be used to implement and manage the program. The following must be covered:

(1) Program data collection and reporting systems to determine the achievement of project outcomes;

(2) Financial management systems to ensure fiscal accountability in accordance with statutory, regulatory, and contractual requirements;

(3) Communication processes and technology that will be utilized; and

(4) Administrative process for each project site.

3. Project Management

Awardee will be responsible for management and oversight of all activities under the grant. Identify the information on project performance and financial management to be collected on a short-term basis by project staff. Describe the process of on-site monitoring of each project site, including employer site visits, if applicable. Describe the processes and procedures to be used to obtain feedback from participants, employers, and any other appropriate parties on the responsiveness and effectiveness of the services provided.

4. Grievance Procedures

Describe the procedure to be used for grievances and complaints from participants, contractors, and other interested parties, consistent with requirements at 20 CFR part 667, subpart F.

5. Previous Project Management Experience

Provide objective evidence of the grant applicant's ability to manage this project, ensure the integrity of the grant funds, and deliver the proposed performance. Indicate the grant applicant's past management experience, particularly regarding oversight and operating functions including financial management and relevant audit or grant reviews of the organization. Provide references and/or contact persons of former or current funding organizations.

If applicant was a grantee of the U.S. Department of Labor's Disability Employment Grant program in prior years, then the applicant must include its participant outcomes and program performance from the previous period(s).

Part IV. Government Requirements

A. Reporting Requirements

Applicants receiving awards under this solicitation will be required to submit financial, program, and participant reports on a quarterly and annual basis. Grantees will be required to submit: (1) Activity and Placement Report (APR) on the number of participants being served, activities and services provided, and placement outcomes; and (2) Participant Characteristics Report (PCR) on age, race, type of disability, etc., of participants enrolled in the grantee's program. Narrative information on the grant program should be submitted quarterly with the APR. The narrative may include information on the status of project implementation, participant success stories during the reporting period, conferences or job fairs planned or held, meetings with employers related to placements, or other information of interest about the grant project. In addition to the APR and PCR, grantees are required to submit a Financial Status Report (FSR), SF 269. Report submissions to the ETA are quarterly for the APR and FSR, and annually for the PCR following the end of the Fiscal Year. The APR, PCR and FSR forms and related instructions can be downloaded from ETA's disAbility Online website at: *http://wdsc.doleta.gov/disability* (click on ''Grantee Communication'' to access these forms). Reports are due to ETA no later than 30 days after the last day of the report period.

B. Use of Federal Funds

Federal funds cannot be used to support activities that would be provided in the absence of these funds. Grant funds may cover only those costs that are appropriate and reasonable. Federal grant funds may only be used to acquire equipment that is necessary for the operation of the grant. Except as specifically provided, DOL/ETA acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, the OMB circulars require, and an entity's procurement procedures must require that all procurement transactions shall be conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the DOL/ETA's award does not provide the justification or basis to sole-source the procurement, i.e., avoid competition.

Grantees must comply with all applicable Federal statutes, regulations, administrative requirements and OMB Circulars. For example, OMB Circular A–122, which applies to nonprofit organizations, requires prior approval for certain capital expenditures to be allowable as direct costs.

Part V. Definitions

For the purpose of this demonstration project, WIA Title I definitions apply. The following definitions are provided for information or clarification of specified terms used in this SGA:

Assistive Technology—The term ''assistive technology'' means technology designed to be utilized in an assistive technology device or assistive technology service. (29 USCA 3002(a)(2), the Assistive Technology Act of 1998).

Assistive Technology Device—The term ''assistive technology device'' means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

Assistive Technology Service—The term ''assistive technology service'' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) The evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) Services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) Services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) Coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) Training or technical assistance for an individual with disabilities, or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual; and

(F) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

Disability—See definition in section 3 of the Americans with Disabilities Act, (42 U.S.C. 12102(2)), and the requirements at 28 CFR 35.104.

Dislocated Worker—See definition in the Workforce Investment Act of 1998 section 101(9) which states that the term ''dislocated worker'' means any individual who—

(A)(i) Has been terminated or laid off, or who has received a notice of termination or layoff, from an employment;

(ii)(I) Is eligible for or has exhausted entitlement to unemployment compensation; or

(II) Has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) Is unlikely to return to a previous industry or occupation;

(B)(i) Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff of, a plan, facility, or enterprise;

(ii) Is employed at a facility at which the employer has made a general announcement that such a facility will close within 180 days; or

(iii) For purposes of eligibility to receive services other than training services described in section 134(d)(4), intensive services described in section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a general announcement that such a facility will close;

(C) Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disaster; or

(D) Is a displaced homemaker.

Displaced homemaker—The term ''displaced homemaker'' means an individual who has been providing unpaid services to family member in the home and who (A) has been dependent on the income of a family member but is no longer supported by that income; (B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Individual with a Disability—See definition in the Workforce Investment Act section 101(17) (29 U.S.C. 2801(17)) which states: (A) In general.—The term ''individual with a disability'' means an individual with any disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)). (B) Individuals with disabilities.—The term ''individuals with disabilities'' means more than one individual with a disability.

Individual with a Significant Disability—See definition pursuant to WIA Title IV, section 403, which amends section 6(21) of the Rehabilitation Act, 29 U.S.C. 705(21).

On-the-Job Training (OJT)—Training provided by an employer that is provided to a paid participant while engaged in productive work in a job that—

(A) Provides knowledge or skills essential to the full and adequate performance of the job;

(B) Provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate (WIA section 101(31), 29 U.S.C. 2801(31)).

Unsubsidized/Competitive Employment—Non-grant or unsupported employment that includes, entry into the Armed Forces (including entry onto active duty from Reserve and National Guard units), entry into employment in a registered apprenticeship program, self-employment, etc. Employment performed on a full-time or part-time basis in an integrated setting in which wages/salaries are at or above the minimum wage. Employment with special wage provisions authorized under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214 and its implementing regulations at 29 CFR part 525) are not considered unsubsidized nor competitive for the purpose of this grant.

Work Experience (WE)—A planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate. A work experience workplace may be in the private for-profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship as defined by the Fair Labor Standards Act, exists (See 20 CFR 663.200(b)).

Signed at Washington, DC, this 2nd day of November 2001.

Lorraine H. Saunders,

Grant Officer, Office of Grants and Contract Management, Division of Federal Assistance.

Attachments

1. Appendix A—''Application for Federal Assistance'' (Standard Form 424)

2. Appendix B—Budget Information Form

BILLING CODE 4510–30–P

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction / Preapplication ☐ Construction ☐ Non-Construction		2. DATE SUBMITTED	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits****: Indicate the rate and amount of fringe benefits.*

3. ***Travel****: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment****: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies****: Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual****: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other****: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs****: Add lines 1 through 7.*

9. ***Indirect Costs****: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested****: Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

[FR Doc. 01–27963 Filed 11–6–01; 8:45 am]
BILLING CODE 4510–30–C

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–139)]

NASA Advisory Council, Biological and Physical Research Advisory Committee Audio Teleconference

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee.

DATES: Thursday, November 29, 2001, from 11 am until 2 pm.

ADDRESSES: This meeting will be conducted via teleconference; hence participation will require contacting Dr. Bradley Carpenter (202/358–0826) before 4:30 pm Eastern, November 28, 2001, and leaving your name, affiliation, and phone number.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0826.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capability of the teleconferencing system. The agenda for the meeting is as follows:

—International Space Station Status.
—GPRA Performance Review.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–27908 Filed 11–6–01; 8:45 am]
BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Presidential Libraries Meeting

Notice is hereby given that the Advisory Committee on Presidential Libraries will meet on November 28, 2001, in the afternoon at the Houston I meeting room on the second floor of the Double Tree Guest Suites, 303 W. 15th Street in Austin, Texas.

The agenda for the meeting will be the Presidential library programs and a discussion of several critical issues including dialogue concerning the symposium on the ''Future of Presidential Libraries'' and a report by the Archivist on recent developments at NARA.

The meeting will be open to the public. For further information, contact Richard L. Claypoole at 301–713–6050.

Dated: November 1, 2001.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 01–27928 Filed 11–6–01; 8:45 am]
BILLING CODE 7515–01–U

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: November 14, 2001: 12:00 Noon.–12:30 p.m.—Closed Session; November 15, 2001: 12:30 p.m.–1:00 p.m.—Closed Session; November 15, 2001: 1:00 p.m.–3:30 p.m.—Closed Session.

PLACE: The National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230, www.nsf.gov/nsb.

STATUS: Part of this meeting will be closed to the public. Part of this meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Wednesday, November 14, 2001

Closed Session (12:00 Noon–12:30 p.m.)

—Closed Session Minutes, October, 2001
—NSB Public Service Award

Thursday, November 15, 2001

Closed Session (12:30 p.m.–1:00 p.m.)

—Awards and Agreements
—NSF Budget, FY 2002, 2003

Open Session (1:00 p.m.–3:30 p.m.)

—Open Session Minutes, October, 2001
—Closed Session Items for March, 2001
—Chairman's Report
—Director's Report
—NSB Guidelines on MRE Priorities
—International Report—Approval
—Committee Reports
—Other Business

Marta Cehelsky,

Executive Officer.

[FR Doc. 01–28077 Filed 11–5–01; 11:54 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket 70–7005]

Waste Control Specialists, LLC; Issuance of Environmental Assessment and Finding of No Significant Impact for Exemption From Certain NRC Licensing Requirements for Special Nuclear Material for Waste Control Specialists, LLC

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an Order pursuant to section 274f of the Atomic Energy Act that would exempt Waste Control Specialists LLC (WCS) from certain NRC regulations. The exemption would allow WCS, under specified conditions, to possess waste containing special nuclear material (SNM), in greater quantities than specified in 10 CFR part 150, at WCS's facility located in Andrews County, Texas, without obtaining an NRC license pursuant to 10 CFR part 70. A description of the operations at the facility and staff's safety analysis for the exemption are discussed in the companion Safety Evaluation Report (SER).

Environmental Assessment (EA)

Identification of Proposed Action: Staff proposes to exempt WCS from the licensing requirements in 10 CFR part 70. The exemption would permit WCS to possess SNM without regard for mass. Rather than relying on mass to ensure criticality safety, concentration-based limits are being applied, such that accumulations of SNM at or below these concentration limits would not pose a criticality safety concern. The methodology used to establish these limits is discussed in the SER. The exemption is contingent on WCS complying with specific conditions in the exemption. These conditions are as follows:

1. Concentrations of SNM in individual waste containers and/or during processing must not exceed the following values:

SNM isotope	Operational limit (gram SNM/gram waste)	Measurement uncertainty (gram SNM/gram waste)
U–233	4.7E–04	7.1E–05
U–235 (10 percent enriched)	9.9E–04	1.5E–04
U–235 (100 percent enriched)	6.2E–04	9.3E–05
Pu-239	2.8E–04	4.2E–05
Pu-241	2.2E–04	3.2E–05

The measurement uncertainty values in column 3 above represent the maximum one-sigma uncertainty associated with the measurement of the concentration of the particular radionuclide. When mixtures of these SNM isotopes are present in the waste, the sum-of-the-fractions rule, as illustrated below, should be used.

$$\frac{\text{U-233 conc}}{\text{U-233 limit}}+\frac{\text{100wt\%U-235 conc}}{\text{100wt\%U-235 limit}}+\frac{\text{10wt\%U-235 conc}}{\text{10wt\%U-235 limit}}+\frac{\text{Pu-239 conc}}{\text{Pu-239 limit}}+\frac{\text{Pu-241 conc}}{\text{Pu-241 limit}}\leq 1$$

The SNM must be homogeneously distributed throughout the waste. If the SNM is not homogeneously distributed, then the limiting concentrations must not be exceeded on average in any contiguous mass of 600 kilograms.

2. Waste must not contain ''pure forms'' of chemicals containing carbon, fluorine, magnesium, or bismuth in bulk quantities (e.g., a pallet of drums, a B–25 box). By ''pure forms,'' it is meant that mixtures of the above elements such as magnesium oxide, magnesium carbonate, magnesium fluoride, bismuth oxide, etc. do not contain other elements. The presence of the above materials will be determined and documented by the generator, based on process knowledge or testing.

3. Waste accepted must not contain total quantities of beryllium, hydrogenous material enriched in deuterium, or graphite above one tenth of one percent of the total weight of the waste. The presence of the above materials will be determined and documented by the generator, based on process knowledge, or testing.

4. Waste packages must not contain highly water soluble forms of SNM greater than 350 grams of U–235 or 200 grams of U–233 or 200 grams of Pu. The sum of the fractions rule will apply for mixtures of U–233, U–235, and Pu. When multiple containers are processed in a larger container, the total quantity of soluble SNM shall not exceed these mass limits. Highly soluble forms of SNM include, but are not limited to: uranium sulfate, uranyl acetate, uranyl chloride, uranyl formate, uranyl fluoride, uranyl nitrate, uranyl potassium carbonate, uranyl sulfate, plutonium chloride, plutonium fluoride, and plutonium nitrate. The presence of the above materials will be determined and documented by the generator, based on process knowledge or testing.

5. Processing of mixed waste containing SNM will be limited to chemical stabilization using the following chemicals: Ferrous sulfate, ferrous sulfide, portland cement, sodium hypochlorite, sodium tripoly-phosphate, Metaplex II (attapulgite-type clay), hexaderyl mescaptan, lime, sodium hydroxide, Metaplex III, hydrogen peroxide, sodium metabisulfate, sodium sulfide, and sodium hydrosulfide.

6. Prior to shipment of waste, WCS shall require generators to provide a written certification containing the following information for each waste stream:

a. Waste Description. The description must detail how the waste was generated, list the physical forms in the waste, and identify uranium chemical composition.

b. Waste Characterization Summary. The data must include a general description of how the waste was characterized (including the volumetric extent of the waste, and the number, location, type, and results of any analytical testing), the range of SNM concentrations, and the analytical results with error values used to develop the concentration ranges.

c. Uniformity Description. A description of the process by which the waste was generated showing that the spatial distribution of SNM must be uniform, or other information supporting spatial distribution.

d. Manifest Concentration. The generator must describe the methods to be used to determine the concentrations on the manifests. These methods could include direct measurement and the use of scaling factors. The generator must describe the uncertainty associated with sampling and testing used to obtain the manifest concentrations.

WCS shall review the above information and, if adequate, approve in writing this pre-shipment waste characterization and assurance plan before permitting the shipment of a waste stream. This will include statements that WCS has a written copy of all the information required above, that the characterization information is adequate and consistent with the waste description, and that the information is sufficient to demonstrate compliance with Conditions 1 through 4. Where generator process knowledge is used to demonstrate compliance with Conditions 1, 2, 3, or 4, WCS shall review this information and determine when testing is required to provide additional information in assuring compliance with the Conditions. WCS shall retain this information as required by the State of Texas to permit independent review.

At the time waste is received, WCS shall require generators of SNM waste to provide a written certification with each waste manifest that states that the SNM concentrations reported on the manifest do not exceed the limits in Condition 1, that the measurement uncertainty does not exceed the uncertainty value in Condition 1, and that the waste meets Conditions 2 through 4.

WCS shall require generators to sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 600 kg, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 6,000 kg, and (c) if the concentrations are below one hundredth of the SNM limits, once per 60,000 kg.

If the waste is determined to be not homogeneous (i.e., maximum, which cannot exceed the limits in Condition 1,

and minimum testing values performed by the generator are greater than five times the average value), the generator shall sample and determine the SNM concentration once per 600 kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

The certification required under these conditions shall be made in writing and include the statement that the signer of the certification understands that this information is required to meet the requirements of the U.S. Nuclear Regulatory Commission and must be complete and accurate in all material respects.

7. WCS shall sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 1,500 kg for the first shipment and every 6,000 kg thereafter, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 20,000 kg for the first shipment and every 60,000 kg thereafter, and (c) if the concentrations are below one hundredth of the SNM limits, once per 600,000 kg. This confirmatory testing is not required for waste to be disposed of at DOE's WIPP facility.

If the waste is determined to be not homogeneous (i.e., maximum and minimum testing values performed by the generator are greater than five times the average value), WCS shall sample and determine the SNM concentration once per 1,500 kg for the first shipment and every 6,000 kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

8. WCS shall notify the NRC, Region IV office within 24 hours if any of the above Conditions are violated. A written notification of the event must be provided within 7 days.

9. WCS shall obtain NRC approval prior to changing any activities associated with the above Conditions.

Need for the Proposed Action: WCS requested an exemption in a letter dated February 22, 2000. WCS noted that Envirocare of Utah, Inc. was granted a similar exemption. As a basis for the request, WCS noted that it was receiving higher quantities of waste containing SNM for treatment. They further note that they have not exceeded the current SNM mass limits in its State of Texas license, but expected that the current SNM mass limits could severely impact their ability to compete in future mixed waste treatment markets.

Environmental Impacts of the Proposed Action: WCS is licensed by the State of Texas, an NRC Agreement State, under a 10 CFR part 30 equivalent license for the treatment and storage of mixed waste and low level radioactive waste. WCS is also licensed by Texas to dispose of hazardous wastes. The State of Texas, in support of its licensing activities, has conducted safety reviews of radiological activities at the site. The proposed actions now under consideration would allow for more SNM to be stored on site, but should not substantially change environmental impacts from current operations. Effluent releases and potential doses to the public are regulated by the State of Texas and are not anticipated to change as a result of the increased storage of SNM on site. It is anticipated that the exemption will result in an increase (up to 20 percent) in truck shipments to the WCS facility. However, in the absence of the exemption, these shipments would likely go to other facilities. In addition, the increased traffic in the area surrounding WCS will not appreciably change the overall traffic in the area. Therefore, the net transportation impact will not be significant.

The regulations regarding SNM possession in 10 CFR part 150 set mass limits whereby a licensee is exempted from the licensing requirements of 10 CFR part 70 and can be regulated by an Agreement State. The licensing requirements in 10 CFR part 70 apply to persons possessing greater than critical mass quantities (as defined in 10 CFR 150.11). The principal emphasis of 10 CFR part 70 is criticality safety and safeguarding SNM against diversion or sabotage. The NRC staff considers that criticality safety can be maintained by relying on concentration limits, under the specified conditions. These concentration limits are considered an alternative definition of quantities not sufficient to form a critical mass to the weight limits in 10 CFR 150.11, thereby assuring the same level of protection. While there could be impacts if the exemption conditions are not met, such potential impacts are no different than if current requirements are not met. Safeguarding of SNM in waste is not considered a significant issue because of the diffuse form of the SNM in the waste.

A condition of the proposed action (condition 7) would require WCS to conduct periodic confirmatory concentration verification on waste containing SNM. WCS currently conducts activities where waste is handled, but the additional sampling and testing would be in addition to current site activities already conducted under WCS's radiation protection program. The additional sampling and testing would also be conducted under this radiation protection program with an emphasis on maintaining doses as low as reasonably achievable. The sampling and testing required will result in an increase in dose to workers. However, the increase in occupational exposure will be within regulatory limits and is considered justified in order to provide additional assurance that the SNM concentrations in waste do not exceed the specified limits.

Based on the above, the NRC concludes that this proposed exemption will have no significant radiological or nonradiological environmental impacts.

Alternatives to the Proposed Action: The NRC staff considered two alternatives to the proposed action. One alternative to the proposed action would be to not grant the exemption (no-action alternative). Under this alternative, WCS would continue to be restricted to possess limited quantities of SNM. As discussed above, the environmental impacts from allowing a greater quantity of SNM, subject to concentration and other conditions, are essentially equivalent to the no-action alternative. As discussed above, an increase in occupational exposure would result from the sampling and testing of SNM waste.

Another alternative would be to grant the exemption without conditions. This option would not provide the same level of protection against an inadvertent criticality as the current mass limits in 10 CFR part 150 and would not provide sufficient protection of health, safety, and the environment. A third alternative would be to grant the exemption without imposing the condition in the Order to perform confirmatory testing. This option would not increase the occupational dose; however, as discussed above and in the SER, this confirmatory testing is considered necessary to provide additional assurance that the SNM concentrations reported on the manifest are accurate. Grossly exceeding the SNM concentration limits could result in an inadvertent criticality. In this event, it is likely that nearby workers would receive doses in excess of the annual occupational limits. The limits defined under the preferred alternative would insure that this event would not occur or would be remote.

Agencies and Persons Consulted: Officials from the State of Texas, Department of Health were contacted about this EA for the proposed action and had no comments.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the NRC finds that the proposed action of granting an exemption from NRC licensing requirements in 10 CFR Part 70 under the conditions specified will not significantly impact the quality of the human environment. The staff further finds that none of the criteria contained in 10 CFR 51.20 which would require the preparation of an Environmental Impact Statement (EIS) has been met.

Accordingly, the NRC is not required to prepare an EIS for the proposed exemption.

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

For The Nuclear Regulatory Commission.

Thomas H. Essig,

Chief, Environmental & Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–27953 Filed 11–6–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

September 1, 2001.

Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of September 1, 2001, of two deferrals contained in one special message for FY 2001. The message was transmitted to Congress on January 18, 2001.

Deferrals (Attachments A and B)

As of September 1, 2001, $872 million in budget authority was being deferred from obligation. Attachment B shows the status of each deferral reported during FY 2001.

Information from Special Message

The special message containing information on the deferrals that are covered by this cumulative report is printed in the edition of the **Federal Register** cited below:66 FR 8985, Monday, February 5, 2001

Mitchell E. Daniels, jr.,

Director.

ATTACHMENT A.—STATUS OF FY 2001 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	1,946.7
Routine Executive releases through September 1, 2001	−1,075.1
Overturned by the Congress.	
Currently before the Congress	871.6

BILLING CODE 3110-01-C

ATTACHMENT B

Status of FY 2001 Deferrals - As of September 1, 2001

(In thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Special Message	Releases (-): Cumulative OMB/ Agency	Releases (-): Congressionally Required	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9/1/01
DEPARTMENT OF STATE									
Other									
United States Emergency Refugee and Migration Assistance Fund	D01-1	145,310		1/18/01	67,033				78,277
INTERNATIONAL ASSISTANCE PROGRAMS									
International Security Assistance									
Economic Support Fund	D01-2	1,801,382		1/18/01	1,008,047				793,335
TOTAL, DEFERRALS		1,946,692			1,075,080				871,612

Note: Detail may not add to totals due to rounding.

[FR Doc. 01–27898 Filed 11–6–01; 8:45 am]
BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–1993; File No. 803–160]

Sterling Johnston Capital Management, L.P.; et al.; Notice of Application

November 1, 2001.

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

ACTION: Notice of application for exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

Applicants: Sterling Johnston Capital Management, L.P. ''SJCM'' and Hirtle Callaghan Trust (''Trust'').

Relevant Advisers Act Sections: Exemption requested under section 206A of the Advisers Act from section 205 of the Advisers Act and Advisers Act rule 205–1.

Summary of Application: Applicants request an order permitting SJCM and its affiliates to charge a performance fee based on the performance of that portion of a Trust portfolio managed by SJCM (''SJCM Account''). Applicants further request that the order permit them to compute the performance-related portion of the fee using changes in the SJCM Account's gross asset value rather than net asset value.

Filing Dates: The application was filed on June 4, 2001, and amended on October 31, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with copies of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 26, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549–0609. Applicants, Sterling Johnston Capital Management, L.P., One Sansome Street, Suite 1800, San Francisco, CA 94104; Hirtle Callaghan Trust, 575 Swedesford Road, Wayne, Pennsylvania 19087.

FOR FURTHER INFORMATION CONTACT: Sarah B. Ackerson, Senior Special Counsel at (202) 942–4780 or Jennifer L. Sawin, Assistant Director, at (202) 942–0719 (Division of Investment Management, Office of Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. SJCM is an investment adviser registered under the Advisers Act. The Trust is an open-end management investment company registered under the Investment Company Act of 1940. The Trust was organized by Hirtle, Callaghan & Co. (''Hirtle Callaghan''), an investment adviser registered under the Advisers Act. The Trust is a series company that currently consists of several separate investment portfolios. Shares of the Trust are available only to clients of Hirtle Callaghan or clients of financial intermediaries, such as investment advisers, that are acting in a fiduciary capacity with investment discretion and that have established relationships with Hirtle Callaghan.

2. Hirtle Callaghan serves as a ''manager of managers'' for the Trust. Pursuant to its agreement with the Trust, Hirtle Callaghan is not authorized to exercise investment discretion with respect to the Trust's assets. Hirtle Callaghan is responsible for monitoring the overall investment performance of the Trust's portfolios and the performance of the portfolio managers that manage the Trust's portfolios. Hirtle Callaghan may also from time to time recommend that the Trust's Board of Trustees (the ''Board'') retain additional portfolio managers or terminate existing portfolio managers. Authority to select new portfolio managers and reallocate assets among the portfolio managers, however, resides with the Trust's Board.

3. SJCM, Frontier Capital Management (''Frontier''), and Geewax, Terker & Co. (''Geewax'') provide portfolio management services to the Small Capitalization Equity Portfolio (''Portfolio''), one of several separate investment portfolios that comprise the Trust. Pursuant to a portfolio management agreement, SJCM provides portfolio management services for a portion of the Portfolio's assets that the Trust's Board allocates to SJCM (''SJCM Account''). SJCM, Frontier, and Geewax are assigned responsibility to manage a separate portion of the Portfolio and each acts as though it were advising a separate investment company. Percentage limitations on investments are applied to each portion of the Portfolio without regard to the investments in the other advisers' portions of the Portfolio. When each adviser receives information about portfolio positions from the Trust or its custodian, the adviser generally receives only information about the portion of the Portfolio assigned to it, and not information about the positions held by the Portfolio as a whole. Each adviser generally is responsible for preparing reports to the Trust and the Board only with respect to its discrete portion of the Portfolio.

4. SJCM is not affiliated with Hirtle Callaghan, the Trust or any other investment advisory organization that provides portfolio management and services to the Trust.[1] Services provided to the Trust by SJCM are limited to investment selection for the SJCM Account, placement of transactions for execution and certain compliance functions directly related to such services. SJCM and its affiliates do not act as a distributor or sponsor for the Trust or Portfolio. No member of the Trust's Board is affiliated with SJCM.

5. SJCM currently receives a fee at the annual rate of 0.40 percent of the average daily net assets of the SJCM Account, payable monthly. On October 18, 2000 the Trust's Board and the Trust's disinterested trustees approved an amendment to the portfolio management agreement between SJCM and the Trust under which the existing fee structure would be replaced with a fee structure that includes a performance component. On December 1, 2000 the shareholders of the Portfolio approved the amendment to the agreement.[2] The proposed amendment would become effective on the first day of the month following receipt of an order from the SEC approving the proposed fee schedule. SJCM's fee would be adjusted to reflect the performance of the SJCM Account only after the proposed amendment has been in effect for 12 months (the ''Initial Period'').

6. Under the proposed fee arrangement, at the end of each of the first three quarters of the Initial Period, SJCM would receive a base fee of 0.10

[1] SJCM does not have any affiliates at this time. Future affiliates, if any, will comply with the terms of any order issued by the Commission in connection with this application.

[2] The proxy statement associated with this shareholder meeting specifically informed shareholders that, if approved by the shareholders, the proposed fee would not become effective until receipt of assurances from the SEC that calculating the fee as proposed would not be viewed as inconsistent with the Advisers Act, and that there could be no guarantee that the SEC would give such assurances.

percent of the average daily net assets of the SJCM Account during the quarter (''Base Fee'').[3] At the end of the fourth quarter of the Initial Period, SJCM would receive the Base Fee, plus or minus a performance component multiplied by the average net assets of the SJCM Account during the Initial Period. The performance component (''Performance Component'') would be equal to 25 percent of the difference between (i) the total return of the SJCM Account calculated without regard to expenses incurred in the operation of the SJCM Account (''Gross Total Return'') and (ii) the sum of the total return of the Russell 2000 Growth Index (''Index Return'') plus a performance hurdle of 40 basis points.

7. None of the expenses of the Portfolio, including SJCM's advisory fee, would be deducted from the performance of the SJCM Account for purposes of calculating Gross Total Return. However, Gross Total Return would reflect the effect (*i.e.*, reducing performance) of all applicable brokerage and transaction costs.

8. For each quarter following the fourth quarter of the Initial Period, SJCM would receive the Base Fee, plus or minus 25% of the Performance Component multiplied by the average net assets of the SJCM Account for the immediately proceeding 12-month period, on a ''rolling basis.'' The maximum annual fee payable for any 12-month period would not exceed 80 basis points, or 20 basis points with respect to any quarter (except the fourth quarter of the Initial Period). The minimum fee payable would be zero with respect to any 12-month period or quarter. The maximum and minimum fees were set by the portfolio management agreement between the Trust and SJCM and are not necessary mathematical outcomes of the fee formula.[4]

[3] Applicants may seek in the future to amend the terms of the proposed fee arrangement to provide for a base fee that is calculated at the annual rate of 0.40% of the SJCM Account's average daily net assets. Calculating the base fee at an annual rate would result in the payment to SJCM of a base fee (before any performance adjustment) that is approximately the same as the quarterly base fee payable under the proposed fee arrangement. It is Applicant's position that any such amendment to the proposed fee arrangement would not constitute a material change in the nature of the proposed fee arrangement, or a change in any material fact set forth in this Application and upon which Applicants rely in their analysis of those provisions of the Advisers Act from which relief is hereby requested. Accordingly, it is Applicant's position that any such amendment would not alter Applicant's ability to rely upon any order issued by the Commission pursuant to this Application.

[4] If the aggregate payments made to SJCM with respect to the first 12 month period exceed the performance-adjusted fee to which SJCM would be entitled, the amount of any excess fee would be credited to the Portfolio in subsequent quarters before additional fee amounts would be payable to SJCM. If the portfolio management agreement between the Trust and SJCM is terminated, the Trust would not recoup any outstanding excess fees that had been paid in previous quarters.

Applicants' Legal Analysis

1. Section 205(a)(1) of the Advisers Act generally prohibits an investment adviser from entering into any investment advisory agreement that provides for compensation to the adviser on the basis of a share of capital gains or capital appreciation of a client's account.

2. Section 205(b) of the Advisers Act provides a limited exception to this prohibition, permitting an adviser to charge a registered investment company and certain other entities a fee that increases and decreases ''proportionately with the investment performance of the investment company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the [SEC] by rule, regulation or order may specify.''

3. Rule 205–1 under the Advisers Act requires that the investment performance of an investment company be computed based on the change in the net (of all expenses and fees) asset value per share of the investment company.

4. Applicants request exemptive relief from section 205 and rule 205–1 of the Advisers Act to permit them to charge the proposed fee (i) applying the proposed fee only to the SJCM Account and not to the Portfolio as a whole, and (ii) computing the Performance Component measured by the change in the SJCM Account's gross asset value, rather than the change in the net asset value of the SJCM Account.

5. Applicants state that Congress, in adopting and amending section 205 of the Advisers Act, and the SEC, in adopting rule 205–1, put into place safeguards designed to ensure that investment advisers would not take advantage of advisory clients.

6. Applicants assert that the SEC required that performance fees be calculated based on the net asset value of the investment company's shares to prevent a situation where an adviser could earn a performance fee even though investment company shareholders did not derive any benefit from the adviser's performance after the deduction of fees and expenses.

7. Applicants state that, unlike traditional performance fee arrangements, SJCM would not receive the Performance Component of its fee unless its management of the SJCM Account has resulted in performance in excess of the Index Return plus a ''performance hurdle'' equal to 40 basis points. Applicants assert that increasing the performance of the Index Return by the 40 basis point hurdle would have an effect similar to deducting SJCM's fees. In the event the Base Fee changes, the performance hurdle also would be changed to match the Base Fee. Applicants state that because the fee structure contains a performance hurdle, the Portfolio's shareholders will have protections similar to those contemplated by the net asset value requirement of rule 205–1.

8. Applicants state that Congress' concern, in enacting the safeguards of section 205, came about because the vast majority of investment advisers exercised a high level of control over the structuring of the advisory relationship. Applicants state that the proposed fee, however, was negotiated actively at arm's length between the parties. Applicants state that SJCM has little, if any, influence over the overall management of the Trust or the Portfolio beyond stock selection. Management functions of the Trust and the Portfolio reside in the Trust's Board. The Trust is directly and fully responsible for supervising the Trust's service providers and monitoring expenses of each of the Trust's portfolios. The Trust's Board is responsible for allocating the assets of the several portfolios among the portfolio managers. SJCM did not sponsor or organize the Trust, or serve as a distributor or principal underwriter of the Trust. SJCM does not own any shares issued by the Trust. No officer, director or employee of SJCM serves as an executive officer or director of the Trust. SJCM is not an affiliated person of Hirtle Callaghan or any other person who provides investment advice with respect to the Trust's advisory relationships (except to the extent that such affiliation may exist by reason of SJCM serving as investment adviser to the Trust).

9. Applicants argue that the proposed fee arrangement satisfies the purpose of rule 205–1 because it was negotiated at arms-length and the Trust does not need the protections afforded by calculating a performance fee based on net assets. Applicants argue that the proposed fee arrangement therefore is consistent with the underlying policies of section 205 and rule 205–1 and that the exemption would be consistent with the protection of investors.

Applicants' Conditions

1. If the base fee changes, the performance hurdle will be changed to match the base fee.

2. To the extent SJCM relies on the requested order with respect to advisory arrangements with other investment companies that it advises, these arrangements will meet the following requirements: (i) The investment advisory fee will be negotiated between SJCM, or the applicable affiliate of SJCM, and the investment company or its primary investment adviser; (ii) the fee structure will contain a performance hurdle that is, at all times, no lower than the base fee; (iii) neither SJCM nor any of its affiliates will serve as distributor or sponsor of the investment company; (iv) no member of the board of the investment company will be affiliated with SJCM or SJCM's affiliates; (v) neither SJCM nor any of its affiliates will organize the investment company; and (vi) neither SJCM nor any of its affiliates will be an affiliated person or any primary adviser to the investment company or of any other person who consults or provides advice with respect to the investment company's advisory relationships (except to the extent that SJCM or its affiliates may be affiliated with another portfolio manager by virtue of the fact that SJCM or the affiliate serves as a portfolio manager to the investment company or to another investment company).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27945 Filed 11–6–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45009; File No. SR–CBOE–2001–55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Establish Connectivity Fees for Use of Its New Screen-Based Trading System

October 31, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on October 12, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On October 29, 2001, CBOE submitted Amendment No. 1 to the proposed rule change.[3] 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

CBOE is proposing to establish connectivity fees in connection with the establishment of the Exchange's screen-based trading system, known as CBOE*direct.* The text of the proposed rule change is available at the principal office of the Exchange and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE 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

CBOE is proposing to establish connectivity fees applicable to the Exchange's new screen-based trading system, CBOE*direct*.[4] These charges relate to the hardware, software, and network costs associated with connecting to the new screen-based trading platform and would be applicable only to members desiring certain types of connectivity to CBOE*direct.* Order-sending firms would be able to route orders to CBOE*direct* via the new connectivity or via existing connections to CBOE's Order Routing System (which serves orders routed to the floor of the Exchange). Members, such as liquidity providers, desiring to connect to CBOE*direct* via the new connectivity would incur set-up charges based on the nature of the connection and the hardware selected. Such members would first choose from two available Application Programming Interfaces (''APIs''): (1) A ''CMI'' API, or (2) a ''FIX'' API. For members that desire a CMI API, additional hardware would be required. There would be three different hardware options available to these users involving different CBOE software and server combinations. Prices for each type are detailed in CBOE's fee schedule. A FIX API connection would involve a $500 charge if the user does not already have appropriate FIX connectivity. All of these set-up charges would be one-time charges.

Connectivity charges also would involve a monthly circuit charge. For members using a CBOE managed network, charges would be based on the bandwidth selected by the user as well as the user's distance from a network POP server. For a member using its own network, a lesser monthly charge would be applicable based on API/hardware configuration.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with section 6(b) of the Act[5] in general and section 6(b)(4)[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE represents that the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Angelo Evangelou, CBOE, to Michael Gaw, Division of Market Regulation, Commission, dated October 25, 2001 (''Amendment No. 1''). The original filing set forth proposed fees for connectivity charges and excessive requests for quote (''RFQs''). In Amendment No. 1, CBOE withdrew the portion of the filing relating to RFQ fees and stated its intention to resubmit this portion in a separate filing.

[4] The Exchange anticipates that, initially, trading on CBOE*direct* will occur only during extended trading hours for a limited range of products. Separately, CBOE has filed a proposed rule change to adopt certain rules governing trading on CBOE*direct. See* File No. SR–CBOE–00–55.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

effective pursuant to section 19(B)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4[8] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NE., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submission should refer to File No. SR–CBOE–2001–55 and should be submitted by November 28, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27888 Filed 11–6–01; 8:45 am]

BILLING CODE 8010–01–M

U.S. SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3371]

State of Oklahoma

As a result of the President's major disaster declaration on October 25, 2001, and a notice received from the Federal Emergency Management Agency on October 31, 2001, I find that Washita County in the State of Oklahoma constitutes a disaster area due to damages caused by severe storms, flooding and tornadoes occurring on October 9 and 10, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 30, 2001 and for economic injury until the close of business on July 31, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Oklahoma may be filed until the specified date at the above location: Beckham, Caddo, Custer, Greer and Kiowa.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.500
Homeowners without credit available elsewhere	3.250
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 337111. For economic injury the number is 9M9700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: November 1, 2001.

Herbert L. Mitchell,

Associate Administrator, For Disaster Assistance.

[FR Doc. 01–27907 Filed 11–6–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Draft Environmental Review of the Proposed U.S.-Chile Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and Comment on the Draft Environmental Review of the proposed U.S.-Chile Free Trade Agreement.

SUMMARY: The Office of the U.S. Trade Representative, through the Trade Policy Staff Committee, seeks comment on the draft environmental review of the proposed U.S.-Chile Free Trade Agreement. The draft environmental review is available at *http://www.ustr.gov/environment/environmental.shtml.*

DATES: Comments related to the draft environmental review are requested by Tuesday, November 20, 2001. Receipt of comments by such date will ensure timely input into the negotiations, which are scheduled to conclude in the month of December 2001. Please note that comments at the present time may only be sent by fax to (202) 395–5141 or by e-mail to *FR002@ustr.gov.*

FOR FURTHER INFORMATION CONTACT: Darci Vetter, Office of the U.S. Trade Representative, Environment and Natural Resources Section, telephone 202–395–7320.

SUPPLEMENTARY INFORMATION: The draft environmental review for the U.S.-Chile Free Trade Agreement was conducted pursuant to Executive Order 13141 on Environmental Review of Trade Agreements (64 FR 63169, Nov. 18, 1999) and its accompanying guidelines (65 FR 79442, Dec. 19, 2000), both of which are available at *http://www.ustr.gov/environment/environmental.shtml.* On December 14 of 2000, the Office of the U.S. Trade Representative requested public comments regarding the scope of the environmental review, including the potential environmental effects that might flow from the free trade agreement and the potential implications for environmental laws and regulations (65 FR 78077, Dec. 14, 2000). A final environmental review will be made publicly available following the conclusion of the U.S.-Chile Free Trade Agreement negotiations.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 01–28098 Filed 11–5–01; 2:51 pm]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SUMMARY: The FAA assigned the Aviation Rulemaking Advisory Committee a new task to review and evaluate the current standards for § 33.14 and corresponding JAR–E 515 as they pertain to the current ''safe life'' process. This notice is to inform the public of this ARAC activity.

FOR FURTHER INFORMATION CONTACT: Timoleon Mouzakis, Federal Aviation Administration, New England Region Headquarters, Engine and Propeller Standards Staff, 12 New England Executive Park, Burlington, MA 01803, phone (781) 238–7114, facsimile: (781) 238–7199, *timoleon.mouzakis@faa.gov*.

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. This includes obtaining advice and recommendations on the FAA's commitments to harmonize Title 14 of the Code of Federal Regulations (14 CFR) with its partners in Europe and Canada.

The Task

1. Review and evaluate the current standards for § 33.14 and corresponding JAR–E–515 as they pertain to the current ''safe life'' process. As the existing standards do not explicitly account for the potential degrading effects of anomalous materials and manufacturing or usage induced anomalies, determine if the FAA can expand the current requirement to include damage tolerance philosophies. Also, establish the process to achieve a closed loop system which links the assumptions made in design (by engineering) to how the part is manufactured and maintained in service.

2. Develop a report based on the review, which may include revisions to the rules. If revisions to the rules are recommended, the report should include recommended regulatory language to the appropriate FAR section, the corresponding JAR paragraphs, any related advisory material, and ARAC's response to the economic questions attached to this tasking record.

3. If, as a result of the recommendations, the FAA publishes an NPRM and/or notice of proposed availability of draft advisory circular for public comment, the FAA may ask ARAC to review all comments and provide the agency a recommendation for the disposition of those comments.

Schedule: Required completion is no later than September 2003.

ARAC Acceptance of Task

ARAC accepted the task and assigned the task to the Engine Harmonization Working Group, Transport Airplane and Engine Issues. The working group serves as staff to ARAC and assists in the analysis of assigned tasks. ARAC must review and approve the working group's recommendations. If ARAC accepts the working group's recommendations, it will forward them to the FAA.

Working Group Activity

The Engine Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan for consideration at the next meeting of the ARAC on transport airplane and engine issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations prior to proceeding with the work stated in item 3 below.

3. Draft the appropriate documents and required analyses and/or any other related materials or documents.

4. Provide a status report at each meeting of the ARAC held to consider transport airplane and engine issues.

Participation in the Working Group

The Engine Harmonization Working Group is composed of technical experts having an interest in the assigned task. A working group member need not be a representative or a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. All requests to participate must be received no later than December 7, 2001. The requests will be reviewed by the assistant chair, the assistant executive director, and the working group co-chairs. Individuals will be advised whether or not their request can be accommodated.

Individuals chosen for membership on the working group must represent their aviation community segment and actively participate in the working group (e.g., attend all meetings, provide written comments when requested to do so, etc.). They must devote the resources necessary to support the working group in meeting any assigned deadlines. Members must keep their management chain and those they may represent advised of working group activities and decisions to ensure that the proposed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for approval.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the assistant executive director, and the working group co-chairs.

The Secretary of Transportation determined that the formation 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.

Meetings of the ARAC will be open to the public. Meetings of the Engine Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. The FAA will make no public announcement of working group meetings.

Issued in Washington, DC, on October 30, 2001.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–27998 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: The FAA assigned the Aviation Rulemaking Advisory Committee a new task to review the adequacy of the standards and advisory materials regarding bird ingestion requirements and determine whether they establish a minimum standard of safety. This notice is to inform the public of this ARAC activity.

FOR FURTHER INFORMATION CONTACT: Marc Bouthillier, Federal Aviation Administration, New England Region Headquarters, Engine and Propeller Standards Staff, ANE–110, 12 New

England Executive Park, Burlington, MA 01803, (781) 238–7120, facsimile: (781) 238–7199, *marc.bouthillier@faa.gov.*

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. This includes obtaining advice and recommendations on the FAA's commitments to harmonize Title 14 of the Code of Federal Regulations (14 CFR) with its partners in Europe and Canada.

The Task

• Review and assess the adequacy of the standards and advisory material for § 33.76 bird ingestion requirements to determine whether they establish an appropriate minimum standard of safety as required by the Federal Aviation Act. The assessment should define the current bird threat, include an evaluation of trends, and consider any reasonable predictable changes to the current threat. ARAC should take into account any changes in the threat resulting from increased population of a particular bird species, actions intended to control populations around airports, and flight-crew training for flocking-bird recognition and avoidance.

• Develop a report on the review and, depending upon the results of the review, recommend regulatory language to § 33.76, corresponding JAR–E540/800, and related advisory material to address any inadequacies identified in the rule or related advisory material. Reconsider whether the basic design of the recent rule is adequate relative to its stated safety objective, reconsider flocking birds greater than 2.5 pounds, and reconsider high-speed aircraft operations at low altitudes relative to the identified bird ingestion threats.

• If appropriate, recommend changes to the recent rules and related advisory material. The recommendation should include ARAC's response to the economic questions attached to this tasking record.

• Identify and provide recommendations to the FAA and JAA for areas of study, other than engine certification requirements, where potential exists to significantly mitigate risks associated with engine bird ingestion.

• If as a result of the recommendations, the FAA publishes an NPRM and/or notice of availability of draft advisory circular for public comment, the FAA may ask ARAC to review selected comments or all comments, as specified at that time by the FAA, and provide the agency with a recommendation for the disposition of those comments.

• Consider defining an industry-level management plan for periodic update and review of the bird ingestion database so as to maintain an awareness of the bird threat in service.

Schedule: Required completion date is August 2002.

ARAC Acceptance of Task

ARAC accepted the task and assigned the task to the Engine Harmonization Working Group, Transport Airplane and Engine Issues. The working group serves as staff to ARAC and assists in the analysis of assigned tasks. ARAC must review and approve the working group's recommendations. If ARAC accepts the working group's recommendations, it will forward them to the FAA.

Working Group Activity

The Engine Harmonization Working Group must comply with the procedures adopted by ARAC. As part of the procedures, the working group must:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan for consideration at the next meeting of the ARAC on transport airplane and engine issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations prior to proceeding with the work stated in item 3 below.

3. Draft the appropriate documents and required analyses and/or any other related materials or documents.

4. Provide a status report at each meeting of the ARAC held to consider transport airplane and engine issues.

Participation in the Working Group

The Engine Harmonization Working Group will be composed of technical experts having an interest in the assigned task. A working group member need not be a representative or a member of the full committee.

Any individual who has expertise in the subject area and wants to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. We must receive all requests by December 7, 2001. The requests will be reviewed by the assistant chair, the assistant executive director, and the working group co-chairs. Individuals will be advised whether or not their request can be accommodated.

Individuals chosen for membership on the working group will be expected to represent their aviation community segment and actively participate on the working group (e.g., attend all meetings, provide written comments when requested to do so, etc.). They also will be expected to devote the resources necessary to support the working group in meeting any assigned deadlines. Members must keep their management chain and those they may represent advised of working group activities and decisions to ensure that the proposed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for approval.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the assistant executive director, and the working group co-chairs. The Secretary of Transportation determined that the formation 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.

Meetings of the ARAC are open to the public. Meetings of the Engine Harmonization Working Group will not be open to the public, except to the extent those individuals with an interest and expertise are selected to participate. The FAA will make no public announcement of working group meetings.

Issued in Washington, DC, on October 30, 2001.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–27997 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare a Supplemental Draft Environmental Impact Statement; Ft. Lauderdale-Hollywood International Airport; Ft. Lauderdale, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advertise to the public that a Supplemental Draft Environmental Impact Statement (Supplemental DEIS) will be prepared and considered for the proposed extension of Runway 9R–27L

to 9,000 feet and widening to 150 feet at Ft. Lauderdale-Hollywood International Airport.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Lane, Federal Aviation Administration (FAA), Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024, 407/812–6331, extension 29.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with Broward County, Florida, prepared and issued in February 2001, a Draft Environmental Impact Statement (DEIS) for a proposed project to lengthen and widen Runway 9R–27L at the Ft. Lauderdale-Hollywood International Airport (FLL) to 9,000 feet × 150 feet for air carrier aircraft use. The existing runway (5,276 feet × 100 feet) accommodates general aviation and commuter aircraft, but the Airport Master Plan (AMP), accepted on April 19, 1995, indicated that significant future airfield congestion and aircraft delay could be anticipated without some modification to the existing airfield facilities. The extension of the existing runway is planned as a precision instrument runway (PIR) with a CAT I approach to both Runway 27L and Runway 9R. The runway will have approach slopes of 50:1 to runway 27L and 50:1 to Runway 9R with a primary surface width of 1,000 feet.

A public hearing on the DEIS was held on March 21, 2001.

The FAA's decision to prepare a Supplemental DEIS is based on recent increases in airport operations and updated FAA forecasts for FLL. Revised forecasts used for the Supplemental DEIS will be FAA's 2001 Terminal Area Forecast for FLL. The revised forecasts are higher than the DEIS forecasts, and consequently the analysis in some of the environmental impact categories will change, specifically noise, environmental justice, and air quality. Revised analysis in the Supplemental DEIS will be based on a baseline year of 2000, the first year of operations with the proposed project of 2008, and an out year of 2015.

Because of the anticipated changes in the DEIS analysis, the FAA plans to circulate the Supplemental DEIS for review and comment by the various governmental agencies and public, and hold a second public hearing to disclose the changes. The FAA anticipates preparing and distributing the Supplemental DEIS and holding a second public hearing in early 2002.

The Supplemental DEIS will be a stand-alone document that will not require the use of the DEIS for interpretation or reference. The Supplemental DEIS will be prefaced with a summary section discussing principal changes from the DEIS. Public and agency comments on the DEIS will be addressed through changes in the Supplemental DEIS and there will not be any formal FAA responses to individual or grouped comments in the Supplemental DEIS. The Final EIS, however, will include comments and FAA responses to both the DEIS and Supplemental DEIS.

The DEIS included detailed evaluation of the No Action Alternative, Alternative A—Build New North Runways Elevated, Alternative B—Build New North Runways At-Grade, and the Proposed Project—Extension of Runway 9R–27L. The alternatives selected for detailed evaluation in the DEIS will not change in the Supplemental DEIS.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Orlando, Florida, October 29, 2001.

W. Dean Stringer,

Manager, Orlando Airports Districts Office.

[FR Doc. 01–27994 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Impact Statement and To Conduct Environmental Scoping for Improvements to the Gary/Chicago Airport in Gary, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice to prepare an Environmental Impact Statement and to hold a public scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement or other appropriate environmental documentation will be prepared to assess certain improvements to the Gary/Chicago Airport. The environmental review will assess improvements associated with the existing air carrier Runway 12–30, including railroad relocation and improved runway safety areas; an extension of the existing air carrier Runway 12–30; expansion of the existing terminal site; and analysis of sites for new passenger terminal and air cargo areas. A public scoping process will be held in order that all significant issues related to the proposed actions are identified.

FOR FURTHER INFORMATION CONTACT: Michael W. MacMullen, Airports Environmental Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. MacMullen can be contacted at (847) 294–7522 (voice), (847) 294–7046 (facsimile).

SUPPLEMENTARY INFORMATION: At the request of the Gary/Chicago Airport Authority, the FAA is preparing an Environmental Impact Statement or other appropriate environmental documentation. The review will address specific improvements of Gary/Chicago Airport as identified during the 2001 Airport Master Plan process and shown on the 2001 Airport Layout Plan. The following improvements have been grouped in four categories and are identified as ripe for review and decision: Improvements associated with Existing Runway 12–30, the primary air carrier runway at the airport, relocate E.J. & E Railroad, acquire land northwest of airport to allow for modifications to runway safety area, relocate airside perimeter roadway, relocate Runway 12–30 navaids, improve Runway Safety Area for Runway 12, relocate Runway 12 threshold to remove prior displacement, and acquire land southeast of airport, located within or immediately adjacent to runway protection zone; Extension of Runway 12–30, including acquire land or rights northwest of existing runway, relocate/bury power lines, relocate airside perimeter roadway, extend Runway 12–30 (1,900 feet by 150 feet), relocate Runway 12–30 navaids, displace Runway 30 threshold using declared distance standards, extend parallel taxiway A to new end of Runway 12, construct deicing hold pads on Taxiway A at Runway 12 and Runway 30, and develop two high-speed exit taxiways; Expansion of existing passenger terminal to accommodate projected demands; taxiways; Expansion of existing passenger terminal to accommodate projected demands; and analysis of sites adjacent to extended runway for aviation related development, including new passenger terminal and air cargo areas.

The purpose and need for these improvements will be reviewed in the environmental documentation. All reasonable alternatives will be considered including the no-action alternative.

Copies of a scoping document with additional detail can be obtained by contacting the FAA informational contact person identified above. Federal, State, and local agencies and

other interested parties are invited to make comments and suggestions to ensure that the full range of issues related to these proposed actions are addressed and all significant issues identified. The FAA informational contact person identified above should receive these comments and suggestions by December 19, 2001.

Public Scoping Meeting: To facilitate receipt of comments, two public scoping meetings will be held on December 5, 2001 at the Gary/Chicago Airport, 6001 Industrial Highway, Gary, Indiana. The first meeting will be held between 10 a.m. and 2 p.m. for Federal, State, and local agencies in the administrative offices. The second meeting will be held from 3 p.m. to 7 p.m. for other interested parties in the passenger terminal facility.

Issued in Des Plaines, Illinois on October 30, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, Great Lakes Region.

[FR Doc. 01–28003 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Draft Environmental Assessment and Notice of a Public Hearing for the City of Chicago's Proposed World Gateway Program and Other Capital Improvement Projects at Chicago O'Hare International Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that a Draft Environmental Assessment (EA) has been prepared by the City of Chicago Department of Aviation for the proposed World Gateway Program at Chicago O'Hare International Airport, and that copies of the Draft EA are available for public review and comment. This Notice has been issued to provide for wide distribution of this information to the public, and to local, state, and federal agencies. Comments are being solicited by the City of Chicago on the environmental consequences of the proposed actions. In addition, FAA is advising that the City of Chicago will hold a public hearing on December 13, 2001, regarding the EA for the purpose of considering the economic, social, and environmental effects of the development and its consistency with applicable plans.

SUMMARY: The World Gateway Program would include terminal development and improvements, taxiway development, terminal access road improvements, utility system modification, cargo facility relocation, and other capital improvement projects. An environmental assessment has been prepared by the City of Chicago Department of Aviation to evaluate the proposed projects. The EA also evaluates other independent airport development projects that would occur in the same time frame as the World Gateway Program. The subsequent environment documentation will be used by the FAA to determine the appropriate level of environmental review necessary pursuant to the National Environmental Policy Act.

Public Hearing: A public hearing and informational workshop will be held on Thursday, December 13, 2001 from 4 p.m.–8 p.m. at the Foundation Blue Banquets, 2300 S. Mannheim Road, Des Plaines, Illinois 60018. The purpose of this hearing is to consider the environmental effects of the proposed World Gateway Program and afford the public the opportunity to present oral and/or written comments. A transcript of the hearing will be made. Written comments will be accepted through the close of business on Tuesday, January 15, 2002. The first half-hour of each hour of the public hearing will be allocated to pre-reserved testimony. The second half of each hour will be allocated to walk-in testimony. All individuals will have five minutes to testify. Individuals may call Ms. Carol Wilinski at 773–894–6900 to reserve a time slot to testify at the public hearing.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Wilinski, Chicago O'Hare International Airport, P.O. Box 66412, Chicago, IL 60666; 773–686–3541 (voice); 773–894–6900 (facsimile); or by email: *wgp__environment@ohare.com.* Please submit comments prior to close of business Tuesday, January 15, 2002.

SUPPLEMENTARY INFORMATION: The proposed World Gateway Program includes the development of two new passenger terminals, Terminals 4 and 6, the redevelopment of Terminal 2, and Terminal 3 Concourse K extension. As a result of these projects, several facilities must be relocated. These relocations are referred to as Enabling Projects. The EA also evaluates other projects unrelated to the World Gateway Program but which are proposed for development during the same period of time and are referred to as Independent Utility Projects. Together, the World Gateway Program, the Enabling Projects, and the Independent Utility Projects are referred to as the Proposed Projects in the EA. The Proposed Projects include the following:

The World Gateway Program

Terminal 2 Redevelopment

Reconfiguration of terminal interior; Widening passenger corridor linking Terminals 1 and 2; Demolition and reconstruction of Concourses E and F; Installation of Federal Inspection Service (FIS) facilities; and Reconfiguration of aircraft parking apron.

Terminal 3, Concourse K Extension

Extensions of Concourse K and Relocation of Taxiway A/B; Construction of new apron.

Terminal 4 Development

Construction of Terminal 4; Installation of FIS facilities; Enlargement and reconfiguration of apron.

Terminal 5 Reconfiguration

Modified to integrate with the proposed Terminal 6.

Terminal 6 Development

Construction of Terminal 6; Reconfiguration of apron; Extension of taxiway; Development of access road for Terminals 5 and 6; Construction of Terminal 6 parking garage; Realignment of Airport Transit System (ATS) line and construction of ATS station in Terminal 6.

Enabling Projects

- Delta Cargo Facility Relocation
- Lynxs Cargo Facility Relocation
- Sky Chefs Flight Kitchen Relocation
- Heating and Refrigeration (H&R) Plant Support Facility Relocations
- Commonwealth Edison Switchyard D179 Relocation

Independent Utility Projects

- Public Parking Improvements
- Development of Consolidated Rental Car Facility/ATS Station
- Development of Rental Car Storage and Maintenance Lot
- ATS Storage and Maintenance Facility Relocation/Track Extension
- Development of Long-Term Parking ATS Station and Intermodal Connection
- Additional Fuel Tank Farm Development in Northwest Airfield
- Development of City Warehouse and Trades Building
- Eastside Collateral Development
- O'Hare Roadway Improvements

Copies of the World Gateway Program Draft EA are available at the following locations:

Arlington Heights Memorial Library, 500 N. Dunton Ave., Arlington Heights, IL 60004
Bensenville Public Library, 200 S. Church Rd., Bensenville, IL 60106
College of DuPage Library, 425 Fawell, Glen Ellyn, IL 60137
Des Plaines Public Library, 1501 Ellinwood St., Des Plaines, IL 60016
Eisenhower Public Library, 4652 N. Olcott Ave., Harwood Heights, IL 60706
Elk Grove Village Public Library, 1001 Wellington Ave., Elk Grove Village, IL 60007
Elmhurst Public Library, 211 Prospect Ave., Elmhurst, IL 60126
Franklin Park Public Library, 10311 Grand Ave., Franklin Park, IL 60131
Harold Washington Library, 400 South State St., 5th Floor, Chicago, IL 60605
Itasca Community Library, 500 W. Irving Park Rd., Itasca, IL 60143
Melrose Park Public Library, 801 Broadway St., Melrose Park, IL 60160
Mount Prospect Public Library, 10 S. Emerson St., Mount Prospect, IL 60056
Northlake Public Library, 231 N. Wolf Rd., Northlake, IL 60164
Oakton Community College Library, Des Plaines, IL 60016
Park Ridge Public Library, 20 S. Prospect Ave., Park Ridge, IL 60068
River Grove Public Library, 8638 Grand Ave., River Grove, IL 60171
Roselle Public Library, 40 S. Park St., Roselle, IL 60172
Schiller Park Public Library, 4200 Old River Rd., Schiller Park, IL 60176
Wood Dale Public Library, 520 N. Wood Dale Rd., Wood Dale, IL 60191

Issued in Des Plaines, Illinois on October 31, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, Great Lakes Region.

[FR Doc. 01–28004 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare an Environmental Assessment; Panama City-Bay County International Airport; Panama City, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advertise to the public that an Environmental Assessment (EA) will be prepared to consider alternatives to meet forecast growth in aviation demand in the Panama City-Bay County region.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Lane, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024, 407/812–6331, Extension 29.

SUPPLEMENTARY INFORMATION: The FAA intends to prepare an Environmental Assessment (EA) to address environmental and related impacts expected to be associated with meeting forecast growth in aviation demand in the Panama City-Bay County region.

The EA will be developed, prepared, and processed such that it can be converted to an Environmental Impact Statement (EIS) in a timely fashion, should the EA indicate that the project will likely result in significant environmental impacts and that a Finding of No Significant Impact (FONSI) is not appropriate.

The Panama City-Bay County International Airport (PFN), owned and operated by the Panama City-Bay County Airport and Industrial District, is located approximately five miles northwest of he central business district of Panama City, Florida. PFN has two 150-foot wide runways, Runway 5–23 and Runway 14–32. Runway 5–23 measures 4,888 feet in length and is primarily used by general aviation aircraft. Runway 14–32, with a length of 6,304 feet, serves as the primary runway for commercial airline service at PFN.

During the 1990's, an Environmental Assessment was initiated to consider alternatives to provide an 8,000-foot runway at PFN. This study recommended an extension of Runway 14–32 to the northwest into Goose Bayou to provide additional runway length. However, the proposed runway extension would have environmental impacts to Class II waters that are protected under state law. Due to opposition to the runway extension, the Environmental Assessment was deferred in 1998.

With support from the Federal Aviation Administration (FAA) and the Florida Department of Transportation (FDOT)), the Panama City-Bay County International Airport Authority initiated an effort to study the feasibility of relocating or expanding the airport facilities in 1999. The Airport Feasibility Study resulted in a determination that relocation of the airport was technically feasible.

This Environmental Assessment (EA) will include evaluation of a no action alternative and other reasonable alternatives that may be identified during the agency and public scoping meetings.

Public Scoping: Although formal scoping is not required for an EA, public and agency scoping sessions will be conducted at the initiation of the EA. This action is being conducted to help to identify the scope of issues to be addressed, assist in the identification of alternatives, and aid in the identification of any potentially significant issues related to the proposed action.

The FAA will hold a scoping meeting to solicit input from Federal, State, and local agencies which have jurisdiction by law or have a specific expertise with respect to any environmental impacts associated with the project. In addition, a public scoping meeting will be held and the public may submit written comments on the scope of the environmental study to the address identified in the **FOR FURTHER INFORMATION CONTACT** paragraph. A separate Public Notice will be issued to provide the date, time and place of the scoping meetings and the period for written comments.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Orlando, Florida, October 30, 2001.

John W. Reynolds,

Acting Manager, Orlando Airports Districts Office.

[FR Doc. 01–27992 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (01–03–C–00–LYH) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lynchburg Regional Airport, Lynchburg, Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Lynchburg Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 7, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Arthur Winder, Project Manager, WASHINGTON AIRPORTS DISTRICT OFFICE, 93723 Air Freight Lane, Suite 210, Dulles, Va. 22016.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mark F. Courtney, Airport Manager, of Lynchburg Regional Airport at the following address: Lynchburg Regional Airport, 4308 Wards Road, Suite 100, Lynchburg, Virginia 24502–3532.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Lynchburg under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Arthur Winder, Project Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, Va. 22016, (703) 661–1363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Lynchburg Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 12, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Lynchburg Regional Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 10, 2002.

The following is a brief overview of the application.

PFC Application No.: 01–03–C–00–LYH.

Level of the proposed PFC: $4.50.

Proposed charge effective date: March 1, 2002.

Proposed charge expiration date: March 1, 2006.

Total estimated PFC revenue: $1,235,568.

Brief description of proposed project(s):

—Develop PFC Program/Application
—Construct Snow Equipment/ Maintenance Building
—Acquire Passenger Lift Service
—Acquire Friction Measuring Equipment
—Acquire Airport Security Equipment
—Update Airport Layout Plan
—Acquire Snow Removal Equipment
—Design Obstruction Removal Runway 3/21
—Design Rehabilitate Runway 3/21
—Acquire Land Runway 21 RPZ
—Acquire Land for Airport Development
—Acquire Land for Obstruction Removal Runway 3/21
—Design Rehabilitate Runway 17/35
—Remove Obstructions Runway 17/35
—Rehabilitate HIRL's Runway 3–21
—Rehabilitate MITL's Taxiway B
—Install Airfield Security Access Control System
—Rehabilitate General Aviation Apron
—Construct Expansion of General Aviation Apron
—Rehabilitate and Light Access Roadway
—Install Airfield Guidance Signs
—Acquire Land for Obstruction Removal Runway 17/35
—Install PAPI Runway 3
—Acquire ARFF Vehicle

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Nonscheduled/ On-Demand Air taxi/Air Carrier operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports Office located at: Federal Aviation Administration, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, NY 11434–4809.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lynchburg Regional Airport.

Issued in Dulles, VA 22016, October 18, 2001.

Terry J. Page,

Manager, Washington Airports District Office.

[FR Doc. 01–27993 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Mobile Regional Airport, Mobile, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mobile Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 7, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Jackson Airports District Office, Jackson International Airport, 100 West Cross Street, suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas G. Hughes, Acting Airport Manager of the Mobile Airport Authority at the following address: Mr. Thomas G. Hughes, Acting Airport Manager, Mobile Airport Authority, P.O. Box 88004, Mobile, AL 36608–0004.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Mobile Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: William Schuller, Program Manager, Jackson Airports District Office, Jackson International Airport, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9883. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Mobile Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 22, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by Mobile Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 10, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–04–C–00–MOB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 2002.

Proposed charge expiration date: July 31, 2005.

Total estimated net PFC revenue: $3,998,879.

Brief description of proposed project(s): Flight Information Display System; two Jet Bridges; Escalator; Public Address System; Bag Belt System; Terminal Roof Replacement; Terminal Cooling System Replacement; Land Acquisition; Security Fence; Airfield Signage; Airfield Marking; Airfield Generator; Terminal Signs; ARFF Vehicle; part 150 Noise Study Update.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators (ATCO) that file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In application, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Mobile Regional Airport.

Issued in Jackson, MS on October 24, 2001.

David Shumate,

Acting Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 01–27995 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 2001, there were four applications approved. Additionally, 19 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: County of Sheridan, Wyoming.

Application Number: 01–02–C–00–SHR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $186,427.

Earliest Charge Effective Date: December 1, 2001.

Estimated Charge Expiration Date: March 1, 2005.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use

Installation of edge drains for runway 14/32 and taxiway B.

Terminal building Americans with Disabilities Act improvements.

Design of runway rehabilitation and deicing containment facility.

Construction of deicing containment facility.

Runway 5/23 rehabilitation.

Decision Date: September 5, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Municipal Airport Authority, Fargo, North Dakota.

Application Number: 01–05–C–00–FAR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,942,080.

Earliest Charge Effective Date: September 1, 2002.

Estimated Charge Expiration Date: January 1, 2004.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Hector International Airport.

Brief Description of Projects Approved for Collection and Use

Emergency electrical generator for the passenger terminal.

Purchase and install jet bridge conversion equipment.

Purchase and install ultra high frequency radio system.

Purchase and install security announcement system.

Purchase and install passenger boarding bridge and rehabilitate boarding area.

Rehabilitate passenger terminal exterior and upgrade heating, ventilation, and air conditioning.

Electrical generator for snow removal equipment facility.

Install signage around perimeter of airport.

PFC development costs.

Truck mounted snow plow.

Security system modification.

Purchase passenger lift and stairs.

Truck mounted runway sanding unit.

Reimbursement for PFC audit and administrative fees.

Purchase and install automated passenger boarding bridge.

Purchase and install a flight information and display system.

Purchase forward looking infrared system.

Rehabilitate existing runway 17 threshold lights.

Acquire friction measuring device.

Terminal apron rehabilitation.

Taxiway B3 reconstruction.

Eastside general aviation apron improvements (phase I).

Eastside general aviation storm sewer rehabilitation (phase I).

Eastside commercial apron improvements (phase I).

Year 2000 upgrade of security access control system.

Upgrade runway surface sensor system for Year 2000.

Eastside general aviation apron improvements (phase II).

Eastside commercial apron improvements (phase II).

Eastside general aviation storm sewer rehabilitation (phase II).

Rehabilitate runway 13/31.

Improve surface drainage along taxiway A.

Install runway threshold lights on runway 8/26.

Construct county drain 10.

Construct airport perimeter road.

Plans and specifications for runway 8/26 extension and perimeter roads.

Conduct airport master plan update.

Decision Date: September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Tom Schauer, Bismarck Airports District Office, (701) 323–7380.

Public Agency: County of Clinton, Plattsburgh, New York.

Application Number: 01–05–C–00–PLB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $56,500.

Earliest Charge Effective Date: December 1, 2002.

Estimated Charge Expiration Date: April 1, 2005.

Classes of Air Carriers not Required to Collect PFC's: Non-scheduled/on demand operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has

determined that the approved class accounts for less than 1 percent of the total annual enplanements at Clinton County Airport.

Brief Description of Projects Approved for Collection and Use

Purchase runway sweeper.

Runways 1/19 and 14/32 crack repair.

Brief Description of Projects Approved for Use

On-airport obstruction removal.

Transient apron rehabilitation.

Decision Date: September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Levine, New York Airports District Office, (516) 227–3807.

Public Agency: Gillette-Campbell County Airport Board, Gillette, Wyoming.

Application Number: 01–03–C–00–GCC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $163,944.

Earliest Charge Effective Date: December 1, 2001.

Estimated Charge Expiration Date: June 1, 2004.

Classes of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use

Design project (rehabilitate runway 16/34 shoulders, groove runway 3/21, relocate taxiway C, and extend taxiway C).

Rehabilitate runway 16/34 shoulders and construct blast pads.

Groove runway 3/21.

Relocate taxiway C.

Extended taxiway C to the runway 21 threshold.

Brief Description of Projects Approved for Collection:

Construct new electrical vault.

Construct combined aircraft rescue and firefighting/snow removal equipment building.

Decision Date: September 28, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Amendments to PFC Approvals

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
95–03–C–03–GPT Gulfport, MS	05/07/01	$4,608,400	$4,763,478	02/01/02	08/01/01
98–02–C–01–CRP Corpus Christi, TX	06/25/01	32,863,948	41,083,878	12/01/17	04/01/23
99–06–C–01–CLE Cleveland, OH	08/31/01	182,207,915	100,101,915	03/01/08	10/01/04
01–12–C–02–ORD Chicago, IL	09/05/01	1,594,827,790	1,315,327,790	10/01/18	10/01/16
98–04–C–02–CRW Charleston, WV	08/31/01	1,253,835	700,795	02/01/01	05/01/00
93–01–C–03–MSN Madison, WI	09/13/01	9,560,000	4,736,271	05/01/00	05/01/98
96–02–C–01–MSN Madison, WI	09/13/01	NA	NA	05/01/00	05/01/98
99–04–C–01–MSN Madison, WI	09/13/01	9,716,667	5,396,747	12/01/06	11/01/01
*95–01–C–01–EAU Eau Claire, WI	09/14/01	755,028	757,028	09/01/05	01/01/06
98–02–C–01–RDM Redmond, OR	09/17/01	571,248	726,735	02/01/03	02/01/03
98–01–C–01–ROA Roanoke, VA	09/18/01	7,237,454	6,548,454	03/01/06	06/01/05
*98–01–C–02–ROA Roanoke, VA	09/20/01	6,548,454	6,463,183	06/01/05	05/01/04
00–10–C–01–BDL Windsor Locks, CT	09/21/01	4,358,000	1,869,103	01/01/01	01/01/01
*98–04–I–03–STL St. Louis, MO	09/21/01	178,756,391	200,257,958	09/01/01	05/01/02
99–05–U–02–STL St. Louis, MO	09/21/01	NA	NA	09/01/01	05/01/02
*93–01–C–02–CAE Columbia, SC	09/25/01	32,892,904	70,528,884	09/01/01	12/01/10
*92–01–C–04–HPN White Plains, NY	09/27/01	19,383,000	17,932,607	10/01/13	05/01/04
*98–05–C–01–MEI Meridian, MS	09/28/01	121,650	121,650	09/01/02	09/01/02
*99–06–C–01–MEI Meridian, MS	09/28/01	148,000	148,000	05/01/04	05/01/04

Note: The amendments denoted by an asterisk (*) include a change to the PFS level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Meridian, MS, St. Louis, MO, White Plains, NY, Columbia, SC, Roanoke, VA, and Eau Claire, WI, this change is effective on December 1, 2001.

Issued in Washington, DC. on October 31, 2001.

Eric Gabler,

Manager, passenger Facility Charge Branch.

[FR Doc. 01–27996 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement Number ACE–01–23.1093(b)]

Issuance of Policy Statement, Compliance with Induction System Icing Protection for Part 23 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of policy statement.

SUMMARY: This document announces an FAA general statement of policy applicable to turbine powered, normal, utility, acrobatic, and commuter category airplanes. This document advises the public, in particular small airplane owners and modifiers, of information related to compliance with the engine induction system icing protection requirements applicable to turbine powered, part 23, normal, utility, acrobatic, and commuter category airplanes. This notice is necessary to tell the public of FAA policy.

FOR FURTHER INFORMATION CONTACT: Paul Pellicano, Federal Aviation Administration, Small Airplane Directorate, Regulations and Policy Branch, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (770) 703–6064; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Background

This notice announces the following policy statement, ACE–01–23.1093(b). The purpose of this statement is to address compliance with the engine induction system icing protection requirements applicable to turbine powered, part 23, normal, utility, acrobatic, and commuter category airplanes.

What is the general effect of this policy?

The FAA is presenting this information as a set of guidelines suitable for use. However, we do not intend that this policy set up a binding norm; it does not form a new regulation,

and the FAA would not apply or rely on it as a regulation.

The FAA Aircraft Certification Offices (ACO's) and Flight Standards District Offices (FSDO's) that certify changes in type design and approve alterations in normal, utility, acrobatic, and commuter category airplanes should try to follow this policy when appropriate. Applicants should expect the certificating officials would consider this information when making findings of compliance relevant to compliance with the engine induction system icing protection requirements applicable to turbine powered, part 23, normal, utility, acrobatic, and commuter category airplanes.

As with all advisory material, this statement of policy identifies one way, but not the only way, of compliance.

General Discussion of Comments

Has FAA taken any action to this point?

We issued a notice of policy statement, request for comments. This proposed policy appeared in the **Federal Register** on August 1, 2001 (66 FR 39815) and the public comment period closed August 31, 2001.

Was the public invited to comment?

The FAA encouraged interested people to join in making this proposed policy. We received comments from two airplane manufacturers.

The comments were related to similarity of part 25 guidance, the severity and subjectivity of the falling and blowing snow criteria, applicability of auxiliary power units (APU), policy differences between inlet styles, an ice shedding example in the policy which contradicts operational regulations, and making the policy into an Advisory Circular. The comments on the subjectivity of the falling and blowing snow criteria and the ice shedding example resulted in revisions to the policy.

The proposed policy was coordinated with the appropriate technical specialists at the Transport Airplane Directorate and the Engine and Propeller Directorate and it does not contradict any part 25 policy.

The ¼ mile visibility criteria for falling and blowing snow comes from the definition of heavy snow in the FAA Aeronautical Information Manual (AIM) and agrees with transport and rotorcraft directorate policy. The policy states that other criteria may be applicable, such as that provided in Advisory Circular 29–2C. Another resource is FAA Report DOT/FAA/AR–97/66, ''Snow and Ice Particle Sizes and Mass Concentrations at Altitudes Up to 9 km (30,000 ft.)'' and this is added to the policy.

The proposed policy states that all turbine installations, regardless of inlet type, should have a design analysis performed and if no accumulation sites of concern exist, then the analysis may be sufficient. A typical part 23 turbopropeller installation has accumulation sites of concern that may not exist for a typical turbojet or turbofan installation with a pitot style inlet. Also, the policy does not distinguish between inlet styles in the applicability of service history.

The policy will be incorporated into the next revision to Advisory Circular 23–16 and in the interim will be posted on the Internet to provide a wide circulation.

The Policy

The purpose of this policy statement is to provide compliance guidance for the engine induction system ice protection requirements contained in 14 CFR, part 23, § 23.1093(b), which is applicable to part 23 turbine powered airplanes. Except for the information contained in Advisory Circulars (AC's) 20–73 and 23.1419–2A, this guidance cancels and supersedes previous guidance on § 23.1093(b) compliance for part 23 normal, utility, acrobatic, and commuter category airplanes.

The guidance contained in AC 20–73 and AC 23.1419–2A, relevant to § 23.1093(b) compliance, is still applicable.

Applicants and FAA Aircraft Certification Offices (ACO's) involved with certification of small airplanes should generally follow this policy. Applicants should expect that the ACO would consider this information when making findings of compliance. However, in determining compliance with certification standards, each ACO has the discretion to deviate from these guidelines when the applicant demonstrates a suitable need. To ensure standardization, the ACO should coordinate deviation from this policy with the Small Airplane Directorate.

References

FAA Aeronautical Information Manual (AIM).

FAA Report DOT/FAA/AR–97/66, Snow and Ice Particle Sizes and Mass Concentrations at Altitudes Up to 9 km (30,000 ft.).

AC 23.1419–2A, Certification of Part 23 Airplanes for Flight in Icing Conditions.

AC 20–73, Aircraft Ice Protection.

AC 29–2C, Certification of Transport Category Rotorcraft.

Considerations Regarding Approval for Flight in Known Icing

It is important to know that compliance with § 23.1093(b) for induction system icing protection, the initial requirement being incorporated by Amendment 23–7, is independent of approval for flight into icing conditions (§ 23.1419 compliance). Propulsion system items that were intended to be certificated for approval for flight into icing conditions are addressed under § 23.929, initially adopted by Amendment 23–14. Service experience has shown that airplanes encounter icing conditions even if the airplane is not approved for flight into icing conditions. This is particularly true with turbine powered airplanes, which typically have an expanded operating flight envelope as compared to reciprocating engine powered airplanes. To provide a minimum level of ice protection for all for part 23 normal, utility, acrobatic, and commuter category airplanes, compliance with all the requirements contained in § 23.1093 must be demonstrated even if the aircraft is not approved for flight into icing conditions. Therefore, for turbine powered airplanes, compliance with § 23.1093(b) is required even if approval for flight into icing conditions is not sought.

Use of Similarity and Service Experience

The use of similarity and service experience is appropriate to lessen the design risk associated with an installation. Once an applicant has developed data on an installation, then the applicant may use this data, when suitable, for substantiation on later projects with similar installations. It is common and proper for an applicant to base analytical methods and test point definitions on experience and testing of previous, similar certification programs performed by the applicant. However, since certification data helps define the type design of an airplane, for one applicant to use data from another applicant's certification program as substantiation, access to the specific design and test considerations used by the second applicant would be required. Therefore, the proper use of similarity data by an applicant to support analytical methods and testing requirements would be difficult if the data was not based on the applicant's past projects or if the project is not being performed in cooperation with another applicant.

Even if previous experience and data are used, each inlet/engine installation and the associated operating

characteristics can be different and should be considered individually. Therefore, it is not appropriate to use similarity or service experience by itself for the purpose of demonstrating compliance to the § 23.1093(b) requirement. Rather, such means as similarity or service experience should be supplemented with either analysis, even if only basic design analysis to substantiate similarity, or testing, or a combination of both.

Use of Tunnel Test Data

An area where there has been much discussion has been the use of tunnel test data instead of full-scale, airplane flight test data for showing compliance with § 23.1093(b). The use of tunnel test data is a common, appropriate, and often efficient means to reduce the amount of testing required by the applicant for showing compliance. However, the extent that this data can be used for compliance is dependent upon how representative the test article and test conditions are to the installation and airplane operating conditions.

It is not uncommon for tunnel testing to be performed on a prototype or test inlet that often has design differences from the production inlet used by an installer. When using tunnel test data, or any test data for that matter, as a basis for testing or certification, the applicant must address the differences and the impact of the differences. Three areas of difference usually addressed are:

(1) Heated versus non-heated inlets;

(2) inlets with movable or variable internal devices (for example, movable vanes used to select bypass modes on a number of turbopropeller inlets) versus fixed inlets; and

(3) differences in geometry even if the inlet type (fixed versus variable) is the same.

As an example, if tunnel testing is performed with a heated inlet and an applicant incorporates a non-heated inlet, ice runback/refreeze may be reduced, but items such as ice accretion characteristics will be different.

Also, it must be ensured that the tunnel tests were performed at the critical points. Advisory Circular 20–73, Aircraft Ice Protection, provides guidance on critical points determination.

14 CFR Part 33 Engine Certification

An applicant seeking airplane certification should coordinate the installation of an engine with the engine manufacturer. The engine manufacturer should be able to identify critical points, conditions, and operational requirements that may need to be addressed when showing compliance with the installation requirements. However, it is inappropriate to assume that any part 33 engine certification program would fully address all the part 23 engine installation requirements.

It should be emphasized that it is the responsibility of the airplane applicant and not the engine manufacturer to show compliance with the part 23 induction system ice protection requirements. Items such as use of an inlet system recommended by the engine manufacturer would still require installation substantiation to show compliance with part 23 requirements.

It is appropriate to use engine type certification data as the basis for reducing design risk, analysis, testing, and so forth; however, when showing compliance with § 23.1093(b) it is still the responsibility of the installer to evaluate this data and demonstrate how the data is applicable to the particular application. Therefore, close coordination of the engine and airplane applicant can ease certification burdens and enhance the safety of a particular engine installation.

Falling and Blowing Snow Requirement

The requirement contained in § 23.1093(b)(1)(ii), incorporated initially by Amendment 23–15, is to evaluate the installed powerplant system to ensure no hazardous effects are encountered when operating in falling and blowing snow. A hazardous effect could be in the form of unacceptable engine operating characteristics (for example, adverse power loss, surges, and so forth) due to inlet blockage or engine damage resulting from conditions such as snow, which may accumulate, melt, refreeze, shed, and then be ingested by the engine. The requirement was incorporated separately from icing and water ingestion requirements due to the unique characteristics of snow. Therefore, it is inappropriate to assume that compliance with engine induction system icing requirements means that compliance with snow requirements have been met.

Service experience has demonstrated that engine damage can occur as a result of prolonged ground operations in falling and blowing snow. Also, in-flight service experience has shown that snow, which has melted and refrozen, can shed from engine, inlet, or airplane accumulation sites, resulting in adverse engine operability or engine damage. Therefore, the effect of ingesting snow during ground operations and critical in-flight operations should be evaluated. The snow environment that has been seen to be critical is a ''wet, sticky snow,'' which accumulates on unheated exterior and interior surfaces subject to impingement.

When showing compliance with § 23.1093(b)(1)(ii), review of the installation should be performed to identify potential inlet, engine, and airframe sites where snow accumulation and shedding is possible. Also, review of the airplane operation should be performed to determine critical conditions that should be addressed.

Although all turbine engine installations should be evaluated, turbopropeller installations generally have different areas of concern than turbofan/jet installations. Typical turbopropeller installations have inlets that incorporate complex geometry with features such as particle separators, plenum chambers, screens, oil coolers, and so forth, where hazardous snow accumulations may occur. Typical turbofan/jet installations, using simple pitot (straight duct) inlets, have minimal, if any, areas for snow accumulation. For these inlets, in-flight icing tests have been generally been found to be more critical than snow tests. Therefore, a turbofan/jet installation may be found acceptable by inlet design and airplane operation analysis, while turbopropeller installations will normally require testing in operationally representative conditions.

However, it needs to be reemphasized that the installation should be evaluated to decide on the required level of substantiation. For example, aft mounted turbofan/jet installations may have concerns with accumulation and in-flight snow shed from wing surfaces after take-off. Also, there are turbofan installations with S-type inlet ducts that would have many of the same concerns as turbopropeller installations. Additionally, part 33 engine certification does not address snow ingestion and some turbofan/jet engines, in addition to turbopropeller engines, may have internal accumulation sites that may allow snow to melt, refreeze, and shed causing internal engine damage. Therefore, all turbine engines should be evaluated with close coordination with the engine manufacturers.

When evaluating the conditions for showing compliance, the following airplane operations should be considered:

1. Static operation with the engine at idle for 30 minutes, with the ability to attain take-off power. This condition is considered critical due to the operational consideration of idling an engine on the ground with minimal ability for de-ice/anti-ice. The primary

concern is the loss of power at take-off roll.

If found acceptable, the engine may be able to be run up at higher power settings during the 30 minute period for the purposes of ice/snow shed. If run-ups are performed during compliance demonstration, these procedures should be incorporated as limitations in the Flight Manual.

Before run-ups are accepted, the practicality of the procedures should be evaluated. For example, if an engine must be run at a high power setting that may allow the airplane to slide or create hazards to other airplanes, then the procedures may not be acceptable.

2. Higher power settings, which could result in increased snow ingestion, associated with taxi/hold ground operations.

3. For airplanes with identified sites of possible hazardous snow accumulation and all inlets with bypass ducts (for example, typical turbopropeller inlets), a take-off run to take-off speed. This condition is considered critical since

(a) accumulated snow may liberate at this dynamic condition; and

(b) the static, idle point will not provide the ram effects that create bypass flow for bypass ducts.

4. For airplanes with identified sites of possible hazardous snow accumulation, take-off climb. This condition is considered critical since accumulated snow may liberate at this dynamic condition.

5. Extended in-flight operations such as hold patterns.

6. Operation when engine rotor speeds are low, such as during descent from high altitudes. An engine is highly susceptible to snow/ice accretion during this condition.

It should be noted that the preceding conditions are operational considerations and not meant to require flight test at all the conditions. As mentioned earlier, each installation may have different critical operational considerations and only the critical conditions may need further substantiation than just analysis.

Also, when appropriately substantiated by the applicant, some of the conditions can be, and have been, simulated and accepted by the FAA. For example, for a turbopropeller engine that incorporates an inlet screen that precludes the ingestion of hazardous quantities of materials, the critical concern to be addressed may only be the effect of snow accumulation and release from the inlet and screen. In this case, the inlet, bypass duct, inlet screen, and so forth, could be blocked to simulate snow accumulation on an identified area of concern. Since accumulation during dynamic operation would be simulated, the effects of snow ingestion could be determined through ground tests (for example, effects of operability on items such as reverse flow). Such methodologies need to be substantiated by means such as design analysis, operational review, tunnel tests, icing tests, and so forth, and coordinated early with the FAA.

When testing in ''falling and blowing snow'' the actual snow amount is often difficult to quantify. The FAA Aeronautical Information Manual (AIM), an official FAA guide to basic flight information and air traffic control procedures, may be used as guidance for what constitutes falling and blowing snow. Per the AIM, paragraph 7–1–18, heavy snow, which is representative of what may be expected in operation, is defined as visibility of ¼ mile or less as limited by snow (not snow and fog). These conditions are usually indicative of the wet snow environment desired for test. When using the ¼ mile or less visibility for test, including flight tests, this value can be determined using ground conditions. Useful information on snow characterization can also be found in FAA Report DOT/FAA/AR–97/66, Snow and Ice Particle Sizes and Mass Concentrations at Altitudes Up to 9 km (30,000 ft.). Advisory Circular 29–2C (Certification of Transport Category Rotorcraft), section AC 29–1093, paragraph c(4)(iv) also provides information on snow quantification including desired snow concentration, which is acceptable for use on part 23 airplanes. However, whatever method is used to characterize the snow, as mentioned earlier, the design consideration that has been found to be critical is snow that accumulates on surfaces subject impingement. Therefore, the applicant should address this consideration when choosing the appropriate snow environment.

The primary consideration is to demonstrate operability in a snow environment that is critical as far as snow accumulation on exterior and interior areas of impingement (for example, wet, sticky snow). However, for a snow environment indicative of a representative concentration expected for the airplane, temperature is also an important consideration. The applicant is responsible for defining the critical ambient temperatures for snow tests.

Typically, in natural conditions, a temperature range between 25 and 34 degrees Fahrenheit has been found conducive to the heavy snow environment. However, colder temperatures may be critical to some configurations. For example, in some installations, colder exterior surfaces may be bypassed, with snow crystals sticking to partially heated interior inlet surfaces, leading to melting and refreeze. In all cases, the applicant must identify and evaluate the critical temperature for the configuration proposed. Company developmental tests or experience with similar induction systems may be used to determine critical conditions.

It should be emphasized that the purpose of the requirement is to evaluate the engine's induction system ice protection capability in snow environments that can be expected during the operational life of the airplane. Addressing the snow environment, detailed in resource materials such as the AIM, at critical operational conditions for a particular airplane, provides a good gauge to evaluate the system's capability. Most configurations will not require flight test in all operational conditions.

Snow concentration corresponding to the visibility prescribed is often extremely difficult to locate naturally. Furthermore, it is often difficult to maintain the desired concentrations for the duration of testing. Because of these testing realities, it is very likely that exact target test conditions will not be achieved for all possible test conditions. Therefore, those involved in certification must exercise reasonable engineering judgement in accepting critical test conditions and alternate approaches, with early coordination between the applicant and the FAA addressing these realities.

Artificially produced snow is an excellent developmental tool and has been used successfully to show potential problem areas and critical test points. When the desired natural snow concentration is not found, artificial means may be used to supplement the snow amount. However, when snow testing is required, the use of simulated snow is normally not used as the sole means of compliance. The desired heavy snow environment produces ''wet, sticky snow,'' which accumulates on unheated exterior and interior surfaces subject to impingement. Most artificial means (for example snow blowers) produce snow pellets that are dissimilar to the snowflakes associated with ''wet, sticky snow.'' Also, simulated snow produced indoors does not accumulate moisture from snow fall as seen in naturally created snow, with critical temperatures for simulated snow varying significantly from natural snow. Therefore, quantification of artificially produced snow for critical conditions can be very difficult and subjective. If artificial means is proposed as a means

of compliance, the applicant should provide data and substantiation on how the artificial means will effectively simulate the critical, desired operational consideration.

The concentration of snow entering the inlet in blowing snow will normally exceed the amount in falling snow; hence, the need to address ''blowing snow.'' Therefore, the location of the inlets should be considered to determine critical directions of blowing snow in relation to snow accumulation on impingement surfaces. Snow blowing in excess of 15 knots is the desired compliance condition. Means such as use of another airplane's propeller, taxiing the airplane in excess of 15 knots, and so forth, may be used to simulate blowing.

An additional area of emphasis for § 23.1093(b)(1)(ii) compliance is the words in the regulation ''. . .within the limitations established for the airplane for such operation.'' As with all environmental considerations, such as rain, ice, hail, lightning, and so forth, operation in snow is considered an unavoidable, meteorological hazard that must be addressed. The only plausible Flight Manual limitation that may be acceptable would be prohibitions for ground operations such as taxi, take-off, engine runs, and so forth. However, the case of flying into snow after deployment must be considered.

Ice Fog

The basic requirement contained in § 23.1093(b)(2), also incorporated by Amendment 23–15, addresses the condition of idling the engine on the ground to ensure no adverse ice build-up (for example, no surges, adverse power loss, and so forth), commonly referred to as ''ice fog.'' A way to view the § 23.1093(b)(2) requirement is as an extension upon the 14 CFR part 25, Appendix C icing envelope addressed in § § 23.1093(b)(1)(i) and 23.1419. Therefore, the methodologies and analysis used for compliance with § 23.1093(b)(1)(i) can be extended for § 23.1093(b)(2) compliance.

It is often difficult to encounter all the ambient conditions required by § 23.1093(b)(2); therefore, when testing, one or more of the conditions is typically simulated. For example, a common and acceptable method of compliance is using water spray devices to simulate the water conditions required, while testing at the required ambient temperature conditions. Other manufacturers have used thermal analysis combined with dry air tests using ice shapes/simulated blockage to demonstrate compliance, which is also acceptable if properly substantiated.

The rule allows an engine run-up periodically to higher power settings to shed ice. As with snow testing, if run-ups are performed during compliance demonstration, then these procedures should be incorporated as limitations in the Flight Manual. Also, before run-ups are accepted, the practicality of the procedures should be evaluated.

Issued in Kansas City, Missouri, on October 23, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–28000 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34116]

Union Pacific Railroad Company—Trackage Rights Exemption—Chicago, Central & Pacific Railroad Company

Union Pacific Railroad Company (UP) and Chicago, Central & Pacific Railroad Company (CCP) have agreed to modify the compensation terms of an existing trackage rights agreement, dated July 6, 1887, as supplemented and amended, covering trackage rights CCP previously granted to UP over its rail line between CCP milepost 484.9 near LeMars, IA, and CCP milepost 509.0 near Sioux City, IA.

The transaction was scheduled to become effective on October 30, 2001.

As a condition to this exemption, any employees affected by the transaction will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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. 34116, 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, one copy of each pleading must be served on Robert T. Opal, General Commerce Counsel, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our website at *''WWW.STB.DOT.GOV.''*

Decided: October 31, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–27824 Filed 11–6–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 27590 (Sub–No. 2)]

TTX Company, *et al.*—Application for Approval of the Pooling of Car Service With Respect to Flat Cars

AGENCY: Surface Transportation Board.

ACTION: Decision.

SUMMARY: In 1994, the Interstate Commerce Commission (ICC), the predecessor to the Surface Transportation Board (Board), granted TTX Company (TTX) a 10-year extension of its authority to pool rail cars, subject to the ICC's continuing monitoring during the term of TTX's extension. In July 2001, the Board invited comments from interested parties on whether any of TTX's activities require oversight action by the Board. Because no comments were filed, the Board is taking no further action and is discontinuing its monitoring during the remainder of TTX's 10-year term.

EFFECTIVE DATE: This decision will be effective on its date of service.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 565–1573. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: In 1989, after reviewing anticompetitive concerns by the United States Department of Justice and other parties, the ICC granted the request by TTX for an extension of its pooling authority, but for only a 5-year term.[1] In its decision, the ICC also subjected TTX to a number of new operating restrictions and imposed a monitoring and annual reporting requirement on the pool. In 1994, prior to the expiration of the 5-year term, the ICC granted TTX a 10-year extension of its pooling authority, approved TTX's request for limited authority to assign rail cars, and continued monitoring by requiring the ICC's Office of Compliance and

[1] This extension of pooling authority was approved in *Trailer Train Co., Et Al.—Pooling—Car Service*, 5 I.C.C.2d 552 (1989).

Enforcement (OCE) to report on any operational concerns at the end of the third and seventh years of the 10-year term.[2]

Pursuant to the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (1995) (ICCTA), effective January 1, 1996, the ICC was abolished; a number of its functions were eliminated; and its remaining rail and certain non-rail functions were transferred to the Board, newly established under the ICCTA. Because authority over TTX's pooling arrangement has been transferred to the Board, it is responsible for monitoring TTX's activities. To carry out that responsibility, during the third year of TTX's 10-year extension of pooling authority, in March 1997, the Board requested comments on whether any of TTX's activities required action or particular oversight by the Board. Because no party filed comments expressing concerns about TTX's activities, the Board took no action at that time.[3] During the seventh year of the extension, on July 31, 2001, the Board again requested comments on whether any action by the Board was necessary. Because again no comments were filed expressing any concerns about TTX's activities, the Board is taking no further action and is discontinuing further monitoring during the remainder of the 10-year extension of TTX's pooling authority.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Further action by the Board to monitor TTX's activities is not required. Monitoring during the remainder of the 10-year term of the pooling authority is discontinued.

2. This decision is being served on all parties appearing on the service list in Finance Docket No. 27590 (Sub-No. 2).

3. This decision is effective on the service date.

Decided: October 31, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–27825 Filed 11–6–01; 8:45 am]

BILLING CODE 4915–00–P

[2] *See TTX Company, Et Al.—Application For Approval of the Pooling of Car Service With Respect to Flat Cars*, Finance Docket No. 27590 (Sub-No. 2) (ICC served Aug. 31, 1994).

[3] *See TTX Company, Et Al.—Application For Approval of the Pooling of Car Service With Respect to Flat Cars*, Finance Docket No. 27590 (Sub-No. 2) (STB served Aug. 7, 1997).

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Acuity, A Mutual Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 8 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001 at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6915.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 66 FR 35025, July 2, 2001.

With respect to any bonds, including continuous bonds, currently in force with the above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: October 26, 2001.

Judith R. Tillman,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 01–27985 Filed 11–6–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Indemnity Insurance Company of North America

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 7 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001 at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6507.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective September 30, 2001.

The Company was last listed as an acceptable surety on Federal bonds at 66 FR 35043, July 2, 2001.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: October 26, 2001.

Judith R. Tillman,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 01–27984 Filed 11–6–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Pacific Employers Insurance Company

AGENCY: Financial Managment Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 6 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001 at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at 9202) 874–6507.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective September 30, 2001.

The Company was last listed as an acceptable surety on Federal bonds at 66 FR 35050, July 2, 2001.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: October 26, 2001.

Judith R. Tillman,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 01–27983 Filed 11–6–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the National Book-Entry System

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury is announcing a new fee schedule for the transfer of book-entry securities maintained on the National Book-Entry System (NBES). This fee schedule will take effect on January 2, 2002. The basic fee for the transfer of a Treasury book-entry security will be $.49, a 22 percent fee reduction from CY 2001. Concurrent with Treasury's fee reduction, the Federal Reserve will be decreasing the fee for the movement of funds by $.01. These changes will result in a combined fee of $.55 for a Treasury security transfer. This represents a $.15 fee reduction from CY 2001.

In addition to the basic fee, off-line transfers have a surcharge. The surcharge for an off-line Treasury book-entry transfer in CY 2002 will continue to be $25.00, unchanged from CY 2001.

EFFECTIVE DATE: January 2, 2002.

FOR FURTHER INFORMATION CONTACT:

Edward C. Leithead, Director, Primary & Secondary Market Fixed Income Securities (Financing), Bureau of the Public Debt, Suite 3014, 26 Federal Plaza, New York, NY 10278, telephone (212) 264–6358.

Diane M. Polowczuk, Associate Director (Financing), Bureau of the Public Debt, Room 510, 999 E Street NW., Washington, DC 20239–0001, telephone (202) 691–3550.

SUPPLEMENTARY INFORMATION. On October 1, 1985, the Department of the Treasury established a fee structure for the transfer of Treasury book-entry securities maintained on NBES.

Based on the latest review of book-entry costs and volumes, Treasury will decrease its basic fee from the levels currently in effect. Effective January 2, 2002, the basic fee will be $.49 for each Treasury securities transfer and reversal sent and received, a 22 percent fee reduction from CY 2001. The current off-line surcharge will remain $25.00, unchanged from CY 2001.

The basic transfer fee assessed to both sends and receives is reflective of costs associated with the processing of a security transfer. The off-line surcharge reflects the additional processing costs associated with off-line securities transfers.

The Treasury does not charge a fee for account maintenance, the stripping and reconstituting of Treasury securities, or for wires associated with original issues, or interest and redemption payments. The Treasury currently absorbs these costs and will continue to do so.

The fees described in this notice apply only to the transfer of Treasury book-entry securities held on NBES. The Federal Reserve System assesses a fee to recover the costs associated with the processing of the funds component of Treasury book-entry transfer messages, as well as the costs of providing book-entry services for government agencies on NBES. Information concerning book-entry transfers of government Agency securities, which are priced by the Federal Reserve System, is set out in a separate **Federal Register** notice published by the Board of Governors of the Federal Reserve System on November 7, 2001 (Docket No. R–1115).

The following is the Treasury fee schedule that will take effect on January 2, 2002, for the book-entry transfers on NBES:

TREASURY-NBES FEE SCHEDULE[1]

[Effective January 2, 2002 (In Dollars)]

Transfer type	Basic fee	Off-line surcharge	Funds[2] movement fee	Total fee
On-line transfer originated	.49	.00	.06	.55
On-line transfer received	.49	.00	.06	.55
On-line reversal transfer originated	.49	.00	.06	.55
On-line reversal transfer received	.49	.00	.06	.55
Off-line transfer originated	.49	25.00	.06	25.55
Off-line transfer received	.49	25.00	.06	25.55
Off-line account switch received	.49	.00	.06	.55
Off-line reversal transfer originated	.49	25.00	.06	25.55

TREASURY-NBES FEE SCHEDULE[1]—Continued

[Effective January 2, 2002 (In Dollars)]

Transfer type	Basic fee	Off-line surcharge	Funds[2] movement fee	Total fee
Off-line reversal transfer received	.49	25.00	.06	25.55

[1] The Treasury does not charge a fee for account maintenance, the stripping and reconstituting of Treasury securities, or the wires associated with original issues, or interest and redemption payments. The Treasury currently absorbs these costs and will continue to do so.

[2] The funds movement fee is not a Treasury fee, but is charged by the Federal Reserve for the cost of moving funds associated with the transfer of a Treasury book-entry security.

Authority: 31 CFR 357.45

Dated: October 30, 2001.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 01–27780 Filed 11–6–01; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–9–95]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–9–95 (TD 8702), Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations (§ 1.367(a)–3).

DATES: Written comments should be received on or before January 7, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations.

OMB Number: 1545–1478.

Regulation Project Number: INTL–9–95.

Abstract: This regulation relates to certain transfers of stock or securities of domestic corporations pursuant to the corporate organization, reorganization, or liquidation provisions of the Internal Revenue Code. Transfers of stock or securities by U.S. persons in tax-free transactions are treated as taxable transactions when the acquirer is a foreign corporation, unless an exception applies under Code section 367(a). This regulation provides that no U.S. person will qualify for an exception unless the U.S. target company complies with certain reporting requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 100.

Estimated Time Per Response: 10 hours.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 1, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–27971 Filed 11–6–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–118662–98]

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation. REG–118662–98 (TD 8873), New Technologies in Retirement Plans (§§ 1.402(f)–1 and 1.411(a)–11).

DATES: Written comments should be received on or before January 7, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: New Technologies in Retirement Plans.

OMB Number: 1545–1632.

Regulation Project Number: REG–118662–98.

Abstract: These regulations provide that certain notices and consents required in connection with distributions from retirement plans may be transmitted through electronic media. The regulations also modify the timing requirements for provision of certain distribution-related notices.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, businesses or other for-profit organizations, not-for-profit institutions, and state, local, or tribal governments.

Estimated Number of Respondents: 375,000.

Estimated Time Per Respondent: 1 hr., 16 min.

Estimated Total Annual Hours: 477,563.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 31, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–27972 Filed 11–6–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 66, No. 216

Wednesday, November 7, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

Correction

In rule document 01–26642 beginning on page 53528 in the issue of Tuesday, October 23, 2001, make the following corrections:

(1) On page 53528 in the second column the **EFFECTIVE DATE:** is corrected to read November 28, 2000.

(2) On page 53529, the date of the signature is corrected to read;

Dated: November 28, 2001.

[FR Doc. C1–26642 Filed 11–6–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

45 CFR CH. V

Commission's Structures, Functions, Rules of Procedure, and Responsibilities

Correction

In the issue of Thursday, October 25, 2001, on page 54061, in the first column, in the correction of rule document C1-24399, make the following corrections:

1. In the last line of the second paragraph, ''appeard'' should read, ''appeared''.

2. The section heading,

§506:18 Entitlement of survivors to award in case of death of prisoner of war. [Corrected]

should read,

§506.18 Entitlement of survivors to award in case of death of prisoner of war.

[FR Doc. C1–24399 Filed 11–6–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44960; File No. SR–NSCC–2001–14]

Self–Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Data Services Only Members

Correction

In notice document 01–26896 beginning on page 54045 in the issue of Thursday, October 25, 2001 make the following correction:

On page 54045, in the first column, the docket line is corrected to read as set forth above.

[FR Doc. C1–26896 Filed 11–6–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44962; File No. SR–NYSE–2001–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Establishing the Fees for NYSE OpenBook™

October 19, 2001.

Correction

In notice document 01–27131 beginning on page 54562 in the issue of Monday, October 29, 2001, make the following correction:

On page 54562, the heading is corrected to include the date as set forth above.

[FR Doc. C1–27131 Filed 11–6–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE

17 CFR Part 204

[Release No. 34–44965]

RIN 3235–A134

Debt Collection—Amendments to Collection Rules and Adoption of Wage Garnishment Rules

Correction

In rule document 01–26960 beginning on page 54125 in the issue of Friday, October 26, 2001, make the following corrections:

§204.52 [Corrected]

1. On page 54132, in the second column, in §204.52(c) in the first line, paragraph ''(C)'' should read ''(c)''.

§204.53 [Corrected]

2. On the same page, in the same column, in §204.53, in amendatory instruction 27 ''Section 24.53'' should read ''Section 204.53''.

[FR Doc. C1–26960 Filed 11–6–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
November 7, 2001

Part II

Department of Agriculture

Agricultural Marketing Services

7 CFR Part 1210

Watermelon Research and Promotion Plan; Referendum Procedures; Final Rule and Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[FV–01–701 FR]

Watermelon Research and Promotion Plan; Subpart D—Referendum Procedures

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Final rule.

SUMMARY: This rule establishes procedures which the U.S. Department of Agriculture (USDA or the Department) will use in conducting a referendum to determine whether the Watermelon Research and Promotion Plan (Plan) and the regulations issued under the Plan should be amended to cover all handlers. The Plan will be amended if the amendments are approved by a simple majority of the eligible watermelon producers, handlers, and importers voting in the referendum. These procedures will also be used for any subsequent referenda under the Plan.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel R. Manzoni, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9915; facsimile (202) 205–2800; or *daniel.manzoni@usda.gov.*

SUPPLEMENTARY INFORMATION: *Prior documents.* USDA published proposed referendum procedures in the **Federal Register** on April 30, 2001 [66 FR 21596] with a 60-day comment period. On the same date, USDA published a proposed rule on amending the Plan in the **Federal Register** on April 30, 2001 [66 FR 21602] with a 60-day comment period.

A referendum will be conducted among eligible watermelons producers, handlers, and importers to determine whether to the Plan and the regulations issued under the Plan should be amended to cover all handlers of watermelons. The amendments to the Plan will be implemented if they are approved by a simple majority of the eligible watermelon producers, handlers, and importers voting in the referendum.

The National Watermelon Promotion Board (Board) administers the Plan under the supervision of the USDA. The Plan was issued under the Watermelon Research and Promotion Act (Act) in 1989.

The Board conducts promotion, consumer information, industry information, and research programs. To fund these activities, producers and first handlers pay 2 cents per hundredweight (cwt.) on the watermelons that they produce or handle, respectively, and importers pay 4 cents per cwt. on the foreign watermelons they import into the United States. First handlers collect the assessments from producers of 10 or more acres of watermelons and send the producer assessment to the Board along with their handler assessments. The assessments on imported watermelons are collected by the U.S. Customs Service (Customs) at the time the watermelons enter the United States. Customs remits the assessments to the Board. Importers of less than 150,000 pounds of watermelons annually may request reimbursement of their assessments.

The Board has recommended amending the Plan to cover all handlers of domestic watermelons-not just first handlers- and that these handlers pay assessments on all watermelons they handle, including any watermelons handled after their importation into the United States. The additional handlers would be wholesalers, persons who arrange the sale or transfer of watermelons (such as brokers), and fresh-cut processors. Watermelon producers, handlers, and importers will vote in a referendum on whether the amendment will be adopted.

Question and Answer Overview

Why Are These Referendum Procedures Being Published?

USDA will conduct a national referendum on amending the Plan in the near future. In order to conduct the referendum, procedures need to be established. The proposed amendments would require all handlers (not just first handlers) to pay assessments to the Board for the first time. These procedures are being made final in advance of the referendum and will help ensure that members of the watermelon industry know the eligibility criteria for voting and other pertinent information.

When Is the Referendum?

The voting period for the referendum will be from December 3, 2001 through January 11, 2002. The Agricultural Marketing Service (AMS) will mail all known eligible voters a ballot, details on the proposed amendments, and voting instructions on or about November 19, 2001.

Who Is Eligible to Vote in the Referendum?

If the following persons produced, handled, or imported watermelons in calendar year 2000, they may vote in the referendum: Current producers of 10 or more acres of watermelons; watermelon handlers (including first handlers, wholesalers, fresh-cut processors, and anyone who arranges the sale or transfer of watermelons); watermelon importers of 150,000 or more pounds of watermelons annually; and importers who import less than 150,000 pounds of watermelons annually and did not apply for and receive reimbursement of assessments.

How Can I Vote in the Referendum?

Voting will take place by mail. All known eligible watermelon producers, handlers, and importers will receive a ballot and voting instructions in the mail from USDA. Producers, handlers, and importers who believe they are eligible to vote and who do not receive a ballot in the mail may request a ballot by calling a toll-free telephone number. The ballot must be received by USDA by close of business on January 11, 2002.

How Will USDA Make Certain That Only Eligible Persons Vote in the Referendum?

USDA will use Board records to verify voter eligibility and may request evidence of eligibility from persons unknown to the Board.

How Will USDA Make Certain That Every Eligible Person Has The Opportunity to Vote?

Persons may call 1–888–729–9917 (toll-free) to request a ballot if they do not receive a ballot and they believe they are eligible to vote. These persons will be required to provide documentation of their eligibility to vote.

How Will the Vote in the Referendum Be Tabulated?

Each eligible producer, handler, and importer will be allowed one vote in the referendum. In order to be implemented, the amendment must be approved by a simple majority of the eligible watermelon producers, handlers, and importers voting in the referendum.

Executive Orders 12866 and 12988

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under E.O. 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

Under Section 1650 of the Act, non-exempt producers, handlers, and importers of watermelons may file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with law. In the petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's decision, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Regulatory Flexibility Act and Paperwork Reduction Act

Final Regulatory Flexibility Analysis. In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) is required to examine the impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

In 13 CFR 121.201, the Small Business Administration defines small agricultural service firms (handlers and importers) as those having annual receipts of less than $5 million and small agricultural producers as those having annual receipts of not more than $750,000.

Approximately 2,220 domestic watermelon producers, 1,170 domestic watermelon handlers, and 280 importers of foreign watermelons will be eligible to vote under these referendum procedures. Currently, there are approximately 620 first handlers who are subject to the provisions of the Plan. An additional estimated 480 wholesalers and persons who arrange the sale or transfer of watermelons (such as brokers) and 70 fresh-cut processors will also be subject to the Plan if the amendment is approved in the referendum. A majority of these producers, handlers, and importers may be classified as small entities.

This final rule creates a new Subpart D-Referendum Procedures [7 CFR 1210.600–1210.607] under the Plan. The procedures will be used in conducting referenda under the Act and the Plan. Initially, the procedures will be used for a referendum during which eligible watermelon producers, handlers, and importers will vote on proposed amendments to the Plan. The amendments would revise the Plan and the regulations under the Plan to include all handlers. A proposed rule on the amendments is published separately in this issue of the **Federal Register**.

USDA will keep the watermelon industry informed throughout the referendum process to ensure that they are aware of and are able to participate in the referendum. USDA will also publicize information regarding the referendum process, so that trade associations and related industry media can be kept informed.

Voting in the referendum is optional. However, if producers, handlers, and importers choose to vote, the burden of casting a ballot will be offset by the benefits of having the opportunity to vote on whether the Plan should be amended.

The information collection requirements contained in this rule are designed to minimize the burden on producers, handlers, and importers voting in referenda. The estimated additional annual cost of providing the information by the estimated 3,670 persons eligible to vote in referenda is $2,290 or $0.62 per voter.

USDA considered requiring eligible voters to vote in person at various USDA offices across the country. USDA also considered electronic voting but noted the use of computers is not universal. USDA will continue to monitor the technology, reliability, and security in this area, and, if it becomes feasible to use electronic voting in the future, USDA will advise the industry at that time. However, conducting the referendum from one central location will be more cost-effective and reliable. The Department will provide easy access to information for potential voters through a toll-free telephone line.

There are no federal rules that duplicate, overlap, or conflict with this rule.

AMS has performed this final Regulatory Flexibility Analysis regarding the impact of this rule on small entities.

Paperwork Reduction Act. In accordance with OMB regulation [5 CFR 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the referendum ballot represents the information collection imposed by this rule.

Approximately 2,220 watermelon producers, 1,170 domestic watermelon handlers, and 280 importers of foreign watermelons will be eligible to vote in the referendum.

The ballot was previously approved for use under OMB Number 0581–0093. However, the number of producers, handlers, and importers eligible to vote in referenda has changed. The new burden was submitted to OMB and has been approved by OMB.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093.

Expiration Date of Approval: July 31, 2004.

Type of Request: Revision of a currently approved information collection for advisory committees and boards and for research and promotion programs.

Abstract: The information collection requirements in this rule are essential to carry out the intent of the Act. The new burden associated with the ballot is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Eligible producers, handlers, and importers.

Estimated Number of Respondents: 3,670.

Estimated Number of Responses per Respondent: 1 every 8 years (0.125).

Estimated Total Annual Burden on Respondents: 229 hours.

The estimated additional annual cost of providing the information by the estimated 3,670 persons eligible to vote in referenda is $2,290 or $0.62 per voter. The currently approved burden for the ballot is 183.5. Therefore, the new burden estimate represents an increase of 46 hours which has been added under OMB No. 0581–0093.

In the proposed rule published on April 30, 2001, comments were invited on:(a) Whether the proposed additional collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed increase in the collection of information, including the validity of the methodology and assumption 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 the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology.

One comment was received by the June 29, 2001, deadline. The commenter stated that the estimate of the burden associated with the ballot is accurate, but the burden could be reduced if USDA allowed electronic voting in addition to the mail ballot. USDA is exploring the feasibility of electronic voting and will notify voters if this option is implemented in the future. USDA will continue to monitor the technology, reliability, and security in this area, and, if it becomes feasible to use electronic voting in the future, USDA will advise the industry at that time.

Background

The Board conducts promotional, consumer information, industry information, and research programs. To fund these activities, producers and handlers pay 2 cents per hundredweight (cwt.) on the watermelon that they produce or handle, respectively, and importers pay 4 cents per cwt. on the foreign watermelons they import into the United States. Handlers collect the assessments from producers of 10 acres or more of watermelons and send the producer assessment to the Board along with their handler assessments. The assessments on imported watermelons are collected by the U.S. Customs Service (Customs) at the time the watermelons enter the United States. Customs remits the assessments to the Board. Importers of less than 150,000 pounds of watermelons annually may request reimbursement of their assessments.

The Board has recommended that the Plan and its rules and regulations be amended to cover all handlers of watermelons. A proposed rule on the amendment is published separately in this issue of the **Federal Register**.

Section 1655(a) of the Act requires that amendments to the Plan must be approved by the industry in a referendum. Section 1653(b) provides that amendments will not take effect unless they are approved by a majority of eligible voters who vote. Therefore, a referendum is required for the proposed amendment.

The referendum procedures provide that the following persons are eligible to vote in referenda: Producers of 10 or more acres of watermelons; all handlers; importers of 150,000 pounds or more annually; and importers who imported less than 150,000 pounds of watermelons annually and did not apply for and receive reimbursement of assessments. In the referendum to determine whether the industry favors expanding coverage of the Plan to all handlers (not just first handlers), the additional handlers will be allowed to vote as if this amendment were in place during the representative period and at the time of the referendum. The additional handlers include wholesalers, anyone who arranges the sale or transfer of watermelons (such as brokers), and fresh-cut processors. If the proposed amendment is approved in the referendum, the additional handlers would vote in subsequent referenda. If the proposed amendment is not approved in the referendum, the additional handlers would not vote in future referenda.

This rule adds a new Subpart D—Referendum Procedures [7 CFR 1210.600–1210.607] to 7 CFR part 1210. The procedures cover definitions, voting, instructions, subagents, ballots, referendum report, and confidential information.

In addition, this rule: (1) Redesignates Subpart—Watermelon Research and Promotion Plan [7 CFR 1210.301–1210.367] as Subpart A; (2) redesignates and renames Subpart—Procedures for Nominating Members to the National Watermelon Promotion Board [7 CFR 1210.400–1210.405] as Subpart B—Nomination Procedures; and redesignates Subpart—Rules and Regulations [7 CFR 1210.500–1210.540] as Subpart C.

A proposed rule on these actions was published on April 30, 2001, in the **Federal Register** [66 FR 21596]. By the June 29, 2001, deadline for comments, we received two comments. One commenter suggested conducting the referendum by mail and electronic voting. USDA is exploring the possibility of providing watermelon producers, handlers, and importers the opportunity to vote electronically in future referenda. USDA will continue to monitor the technology, reliability, and security in this area, and, if it becomes feasible to use electronic voting in the future, USDA will advise the industry at that time. Another comment was received. However, this commenter essentially asserted that the program is a large burden and expense for his company and that he is opposed to the Plan. The comment did not specifically address the proposed referendum rules. Accordingly, the proposed rule is made final without change.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

For the reasons set forth in the preamble, Title 7, chapter XI of the Code of Federal Regulations, is amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION

1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4912.

2. Revise the subpart heading for ''Subpart—Watermelon Research and Promotion Plan'' to read as follows:

Subpart A—Watermelon Research and Promotion Plan

3. Revise the subpart heading for ''Subpart—Procedures for Nominating Members to the National Watermelon Promotion Board'' to read as follows:

Subpart B—Nominating Procedures

4. Revise the subpart heading for ''Subpart—Rules and Regulations'' to read as follows:

Subpart C—Rules and Regulations

5. Add a new Subpart D–Referendum Procedures to read as follows:

Subpart D—Referendum Procedures

Sec.

1210.600 General.
1240.601 Definitions.
1240.602 Voting.
1240.603 Instructions.
1240.604 Subagents.
1240.605 Ballots.
1240.606 Referendum report.
1240.607 Confidential information.

Subpart D—Referendum Procedures

§ 1240.600 General.

Referenda to determine whether eligible producers, handlers, and importers favor the continuation, suspension, termination, or amendment of the Watermelon Research and Promotion Plan shall be conducted in accordance with this subpart.

§ 1240.601 Definitions.

Unless otherwise defined in this section, the definition of terms used in these procedures shall have the same meaning as the definitions in the Plan.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Department* means the United States Department of Agriculture.

(c) *Eligible handler* means any person (except a common contract carrier of watermelons owned by another person) who handles watermelons, including a producer who handles watermelons of the producer's own production, subject to the provisions of § 1210.602(a) of this chapter, who handles watermelons as a person performing a handling function and either:

(1) Takes title or possession of watermelons from a producer and directs the grading, packing, transporting, and selling of the watermelons in the current of commerce;

(2) Purchases watermelons from producers;

(3) Purchases watermelons from handlers;

(4) Purchases watermelons from importers; or

(5) Arranges the sale or transfer of watermelons from one party to another and takes title or possesssion of the watermelons: *Provided*, That harvest crews and common carriers who collect and transport watermelons from the field to a handler are not handlers and that retailers, wholesale retailers, foodservice distributors, and foodservice operators are not handlers.

(d) *Eligible importer* means any person who imports 150,000 pounds or more watermelons annually into the United States as principal or as an agent, broker, or consignee for any person who produces watermelons outside the United States for sale in the United States. An importer who imports less than 150,000 pounds of watermelons annually and did not apply for and receive reimbursement of assessments is also an eligible importer.

(e) *Eligible producer* means any person who is engaged in the growing of 10 or more acres of watermelons, including any person who owns or shares the ownership and risk of loss of such watermelon crop. A person who shares the ownership and risk of loss includes a person who:

(1) Owns and farms land, resulting in ownership, by said producer, of the watermelons produced thereon;

(2) Rents and farms land, resulting in ownership, by said producer, of all or a portion of the watermelons produced thereon; or

(3) Owns land which said producer does not farm and, as rental for such land, obtains the ownership of a portion of the watermelons produced thereon. Ownership of, or leasehold interest in land, and the acquisition, in any manner other than set forth in this subpart, of legal title to the watermelons grown on said land, shall not be deemed to result in such owners or lessees becoming producers. Persons who produce watermelons for non-food uses are not producers for the purposes of this subpart.

(f) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity. For the purpose of this definition, the term partnership includes, but is not limited to:

(1) A husband and wife who have title to, or leasehold interest in, land as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and

(2) So-called *joint ventures* wherein one or more parties to the agreement, informal or otherwise, contributed land and others contributed capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the production, handling, or importation of watermelons for market and the authority to transfer title to the watermelons so produced, handled, or imported.

(g) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(h) *Representative period* means the period designated by the Secretary pursuant to the Act.

§ 1240.602 Voting.

(a) Each person who is an eligible producer, handler, or importer as defined in this subpart, at the time of the referendum and who also was a producer, handler, or importer during the representative period, shall be entitled to one vote in the referendum: *Provided,* That each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce watermelons in which more than one of the parties is a producer, shall be entitled to one vote in the referendum covering only that producer's share of the ownership: *Provided further*, That the vote of a person who both produces and handles watermelons will be counted as a handler vote if the producer purchased watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or the combined total volume of watermelon handled by the producer from the producer's own production and purchased from other producer's production is more than 50 percent of the producer's own production: *Provided further*, That the vote of a person who both imports and handles watermelons will be counted as an importer vote if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person.

(b) Proxy voting is not authorized, but an officer or employee of a corporate producer, handler, or importer, or an administrator, executor, or trustee of a producing, handling, or importing entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that the individual is an officer, employee of the producer, handler, or importer, or an administrator, executor, or trustee of a producing, handling, or importing entity and that the individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) *Casting of ballots.* All ballots are to be cast as instructed by the Secretary.

§ 1240.603 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this section, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions in this section, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the voting period, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as said agent may deem advisable.

(d) Mail to eligible producers; importers; and in the case of an order assessing handlers, handlers whose names and addresses are known to the referendum agent; the instructions on voting; a ballot; and a summary of the terms and conditions to be voted upon. No person who claims to be eligible to vote shall be refused a ballot. However, such persons may be required to submit evidence of their eligibility.

(e) At the end of the voting period, collect, open, number, and review the

ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1240.604 Subagents.

The referendum agent may appoint any individual or individuals necessary to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1240.605 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be questioned for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was questioned, by whom questioned, why the ballot was questioned, the results of any investigation made with respect to the questionable ballot, and the disposition of the questionable ballot. Ballots invalid under this subpart shall not be counted.

§ 1240.606 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1240.607 Confidential information.

All ballots cast and their contents and all other information or reports furnished to, compiled by, or in possession of, the referendum agent or subagents that reveal, or tend to reveal, the identity or vote of any producer, handler, or importer of watermelons shall be held strictly confidential and shall not be disclosed.

Dated: October 30, 2001.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 01–27814 Filed 11–6–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[FV–01–702 PR2]

Watermelon Research and Promotion Plan; Amendment To Cover all Handlers and Referendum Order

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Watermelon Research and Promotion Plan (Plan) and the regulations issued under the Plan to cover all handlers of watermelons—including wholesalers, persons who arrange the sale or transfer of watermelons, and fresh-cut processors in addition to the first handlers who are currently covered. Under this rule, all handlers would pay assessments and file reports on all watermelons they handle, including any watermelons handled domestically after their importation. All handlers would also be eligible to seek nomination to the National Watermelon Promotion Board and vote in referenda. The amendment would increase assessment income under the watermelon program. In order to become effective, the amendment must be approved by a majority of the eligible watermelon producers, handlers, and importers voting in a referendum.

DATES: The voting period for the referendum will be from December 3, 2001 through January 11, 2002. If the following persons produced, handled, or imported watermelons in calendar year 2000, they may vote in the referendum: Current producers of 10 or more acres of watermelons; watermelon handlers (including first handlers, wholesalers, fresh-cut processors, and anyone who arranges the sale or transfer of watermelons); watermelon importers of 150,000 or more pounds of watermelons annually; and watermelon importers who import less than 150,000 pounds of watermelons annually and did not apply for and receive reimbursement of assessments.

FOR FURTHER INFORMATION CONTACT: Daniel R. Manzoni, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9915; facsimile (202) 205–2800; or e-mail daniel.manzoni@usda.gov.

SUPPLEMENTARY INFORMATION: *Prior documents.* USDA published a proposed rule on amending the Plan in the **Federal Register** on April 30, 2001 [66 FR 21602] with a 60-day comment period. On the same date, USDA published proposed referendum procedures in the **Federal Register** [66 FR 21596] with a 60-day comment period.

The National Watermelon Promotion Board (Board) administers the Watermelon Research and Promotion Plan [7 CFR part 1210] under the supervision of the U.S. Department of Agriculture (USDA or the Department). The Plan was implemented in June 1989 under the Watermelon Research and Promotion Act (Act), as amended [Pub. L. 99–198; enacted January 1, 1986; 7 U.S.C. 4901–4916].

Under the Plan, the National Watermelon Promotion Board (Board) conducts promotion, consumer information, industry information, and research programs. To fund these activities, producers and handlers pay 2 cents per hundredweight (cwt.) on the domestic watermelons that they produce or handle, respectively, and importers pay 4 cents per cwt. on the foreign watermelons they import into the United States. Handlers collect the assessments from producers of 10 or more acres of watermelons and send the producer assessment to the Board along with their handler assessments. The assessments on imported watermelons are collected by the U.S. Customs Service (Customs) at the time the watermelons enter the United States. Customs remits the assessments to the Board. Importers of less than 150,000 pounds of watermelons annually may request the Board to reimburse them for the assessments collected by Customs and remitted to the Board.

Question and Answer Overview

Why Should all Handlers of Watermelons pay Assessments Under the Plan?

Between the farm and retail markets, watermelons are handled several times. The Plan currently only covers first handlers of watermelons—those who first put watermelons into the marketing chain. However, wholesalers, fresh-cut processors, and other persons who arrange the sale or transfer of watermelons perform similar functions and benefit from the Board's promotion of watermelons. Therefore, the Board recommended that these additional handlers also be covered by the Plan. Including all handlers would simplify the assessment process because all—not just some—handlers would be required to pay assessments.

What Would Be the Overall Impact of This Rule?

Currently, there are approximately 619 first handlers required to pay assessments to the Board on the domestic watermelons they handle. If this amendment is approved, first handlers would be required by pay assessments on all watermelons they handle, including any watermelons handled domestically after their importation.

Also, an additional estimated 550 handlers—wholesalers, fresh-cut processors, and persons who arrange the sale or transfer of watermelons (such as brokers)—would be required to pay assessments for the first time. The additional handlers would not include retailers, wholesale retailers, foodservice distributors, or foodservice operators. The additional estimated 550 handlers would be expected to pay an assessment to the Board of 2 cents per cwt. on the watermelons they handle, including any watermelons handled domestically after their importation into the United States. The assessment would be due not later than 30 days after the end of the month in which the watermelons were handled. These handlers would also be required to submit to the Board with their assessments a report containing their name, address, and telephone number, the period covered by the report, and the total quantity of watermelons handled during the reporting period. If assessments are not paid on time, late payment charges and interest would be applied to the amount due, and they might be subject to civil penalties.

These handlers would be eligible to be nominated and to serve as a handler member of the Board for the district in which they reside. This provides the opportunity to participate in the development and implementation of marketing and research projects which can impact all aspects of the industry, from field to store. These handlers would also be eligible to vote in referenda relating to the Plan—including the referendum on this amendment.

How Will This Change Affect Board Operations?

The main impact on the Board would be the availability of an additional estimated $900,000 in assessment income which would be used to benefit the watermelon industry as a whole through more marketing, public relations, education, and research activities, with specific emphasis on

post harvest research and category management. This has the potential to increase demand for watermelons.

Why Is There Going to Be a National Referendum on the Amendment?

The Act requires USDA to conduct a referendum on amendments to the Plan. Conducting a referendum allows the persons affected or potentially affected by the amendments the opportunity to vote on whether it should be adopted.

When Will the Vote Be Taken?

The voting period will be from December 3, 2001 through January 11, 2002.

How Can I Vote in the Referendum?

Voting will take place by mail. All known eligible producers, handlers, and importers will receive a ballot and voting instructions in the mail from USDA. Producers, handlers, and importers who believe they are eligible to vote and who do not receive a ballot in the mail may request a ballot by calling a toll-free telephone number. The ballot must be received by USDA by close of business on January 11, 2002.

What Criteria Will USDA Use To Decide Whether the Industry Wants the Amendment or not?

The amendment must be approved by a simple majority of the voters in the referendum.

If the Watermelon Industry Approves This Amendment, When Will it Become Effective?

The amendment would likely become effective for the 2002 marketing year which begins on April 1, 2002.

Executive Orders 12866 and 12988

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

Section 1645 of the Act allows producers, handlers, and importers of watermelons who are subject to the Plan to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with law. In the petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's decision, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Regulatory Flexibility Act and Paperwork Reduction Act

Initial Regulatory Flexibility Analysis. In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) is required to examine the impact of this proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

In 13 CFR 121.201, the Small Business Administration defines small agricultural service firms (handlers and importers) as those having annual receipts of less than $5 million and small agricultural producers as those having annual receipts of not more than $750,000.

Currently, there are approximately 2,220 producers of 10 or more acres of watermelons, 620 handlers, and 280 importers of more than 150,000 pounds of watermelons annually. If this rule is implemented, there would be an additional 550 handlers subject to the Plan: 480 wholesalers and persons who arrange the sale or transfer of watermelons and 70 fresh-cut processors. A majority of the producers, handlers, and importers may be classified as small entities.

This proposed rule would amend the Plan to cover all handlers of watermelons. If it is adopted, wholesalers, persons who arrange the sale or transfer of watermelons, and fresh-cut processors of watermelons—in addition to first handlers—would pay an assessment of 2 cents per cwt. on all watermelons they handle (including any watermelons handled domestically after their importation), file reports with the Board, keep records on their handling transactions, and be subject to penalties for noncompliance with the Plan. These additional handlers will also be eligible to be nominated to serve as handler members on the Board and to vote in referenda.

The watermelon industry as a whole could benefit from this rule. Covering all handlers under the Plan would simplify the assessment process and provide more income to the Board. The assessment process would be simplified because all handlers would be treated equally. No longer would the first handler be the only person paying the handler assessment. Covering all handlers is more workable in an actual business setting. Also, an additional estimated 550 handlers paying assessments is likely to increase the income of the Board from $1.3 million to $2.2 million annually. As a result, there would be more funds available to the Board to increase the demand for watermelons, which would benefit producers, handlers, and importers alike, without increasing the rate of assessment.

The Board would use the estimated $900,000 in assessment income to benefit the watermelon industry as a whole through more marketing, public relations, education, and research activities, with specific emphasis on post harvest research and category management.

Category management is a new system used by major supermarket chains to manage supplies of the various products they sell. Each section of a supermarket is considered a category, and some sections—such as the produce section—contain several categories. With category management, the supermarket chains are less flexible in how much of a given product they want within a given time frame. In order to maintain or increase market share, the suppliers to the retail chains need to develop their own category management plans. It is much more difficult for producers and suppliers of perishable items to fit into this system than producers and suppliers of non-perishable goods. This means that an effective category management program may be essential for a perishable agricultural commodity group. However, developing an effective category management program is expensive. The Board began developing its category management program in 2000. The Board's goal is to position watermelons as the leader in the melon category of the produce section. In order to maintain its category management program, the Board needs to purchase additional sales data and conduct additional consumer research. An effective category management plan has the potential to increase demand for watermelons. This would benefit producers, handlers, and importers.

The Board considered raising the assessment rate for producers, handlers, and importers by 50 percent in order to

generate additional funds to grow demand for watermelons. However, watermelon producers are not in the position to increase their burden under the program, given the state of the industry. Therefore, this alternative was not considered viable. In the watermelon industry, just as in other fruit and vegetable industries, there are handlers that cover the assessment cost as a business expense, handlers that pass the cost back to producers, and handlers that pass the cost along to retailers and, hence, consumers. Therefore, it is likely that some of the additional assessments collected from the newly covered handlers would be passed back to first handlers, who may pass it back to producers. However, it is not anticipated that this will represent a majority of the additional assessments that would be collected. Any increased cost for producers is expected to be less than an overall increase in the producer assessment. In addition, any increased cost for producers or handlers is likely to be offset by the benefit of increased demand for watermelons.

The information collection requirements contained in this proposed rule are designed to minimize the burden on handlers covered by the watermelon research and promotion program. The estimated additional annual cost of providing the information by an estimated 550 new handlers would be $2,750 or $5 per new handler as discussed below.

There are no federal rules that duplicate, overlap, or conflict with this rule.

AMS has performed this initial Regulatory Flexibility Analysis regarding the impact of this proposed rule on small entities. In order to have additional data that may be helpful in evaluating the effects of this rule on small entities, we invited comments concerning its potential effects. However, no comments were received on this aspect of the April 30, 2001, proposed rule.

Paperwork Reduction Act. In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that would be imposed by this rule were submitted to OMB and approved by OMB under OMB Number 0581–0093.

This proposed rule would add an information collection burden on the additional 550 handlers who would be subject to the Plan. The information collection burden includes filing reports and maintaining books and records under the Plan. Handlers are required to maintain such records for two fiscal years beyond the fiscal period of their applicability. The additional handlers would also be eligible to vote in referenda under the Plan, but the voting burden is associated with the ballot which is included in the final referendum procedures which are being published separately in this issue of the **Federal Register**.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093.

Expiration Date of Approval: July 31, 2004.

Type of Request: Revision of a currently approved information collection for research and promotion programs.

Abstract: The information collection requirements in this rule are essential to carry out the intent of the Act.

The increase in burden associated with this rule is as follows:

1. Handler's Report.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .75 hours per response.

New Respondents: Handlers.

Estimated Number of New Respondents: 550.

Estimated Number of Responses per New Respondent: 4 times a year.

Estimated Total Annual Burden on New Respondents: 1,650 hours.

2. A Requirement To Maintain Records Sufficient To Verify Reports Submitted Under the Plan.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .50 hours per response.

New Respondents: Handlers.

Estimated Number of New Respondents: 550.

Estimated Total Annual Burden on New Respondents: 275 hours.

The estimated additional annual cost of providing the information by an estimated 550 new handlers would be $2,750 or $5 per new handler. The increase of 275 total burden hours has been added to the previous burden total of 314.5 hours under OMB No. 0581–0093.

In the proposed rule published on April 30, 2001, comments were invited on:

(a) Whether the proposed additional collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed increase in the collection of information, including the validity of the methodology and assumption 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

One comment was received by the June 29, 2001, deadline. The commenter asserted that the estimate of the burden associated with the handler's report (0.75 hours) and recordkeeping (0.5 hours) was overstated. AMS believes that the burden estimate is accurate, and, therefore, no changes are made in response to this comment.

Background

The National Watermelon Promotion Board (Board) has recommended that the Watermelon Research and Promotion Plan (Plan) be amended to include all handlers of domestic watermelons due to an increased need to promote watermelons. In 1999, domestic production of watermelons totaled 4.1 billion pounds. This was a 12-percent increase over 1998. At the same time, the season average price of watermelons fell from $7.71 per hundredweight (cwt.) in 1998 to $6.49 per cwt. in 1999. This indicates that additional promotion of watermelons is needed.

The proposed amendment would increase the Board's assessment income by approximately $900,000 to approximately $2.2 million annually. It would also streamline the assessment payment and collection processes because all handlers would be covered—not just the first handler—because they perform similar functions in the marketing chain.

Section 1210.305 of the Plan currently defines a handler as any person (except a common or contract carrier of watermelons owned by another person) who handles watermelons, including a producer who handles watermelons of the producer's own production. This means the first person who performs the handling function. Under § 1210.307 of the Plan, to handle means to grade, pack, process, sell, transport, purchase, or in any other way to place or cause watermelons to which one has title or possession to be placed in the current of commerce. The handling function does not include the transportation or delivery of field run watermelons by a producer to a handler for grading, sizing, or processing.

Currently, 691 first handlers pay an assessment of 4 cents per cwt. on the watermelons that they handle, file

reports with the Board for the months in which they handle watermelons, and maintain records of their handling transactions for a period of two years after the year in which they occurred. In 1999, the average handler assessment was $1,640.

Assessment payments and a report must be postmarked not later than 30 days after the end of the month in which the watermelons are handled. If a handler does not remit the assessments to the Board on time, the Board imposes a one-time late payment charge of 10 percent. In addition, handlers are charged 1.5 percent per month interest on the outstanding balance. The failure to pay assessments is considered a violation of the Act and the Plan. If a handler does not pay the assessments which are due, the Board may audit the handler's records and request USDA to take legal action against the handler. If USDA takes legal action, the handler may be subject to civil penalties from $550 to $5,500 per violation.

The Board has identified additional estimated 550 handlers who would be required to pay the same assessment, file the same reports, and maintain the same records as first handlers on all they handle, including any watermelons handled domestically after their importation, if this amendment is adopted. The additional handlers are wholesalers, fresh-cut processors, and other persons who arrange the sale or transfer of watermelons. These handlers would also be subject to the same penalties for non-payment of assessments.

The additional handlers would also be eligible to serve as handler members on the Board and vote in referenda. Serving on the Board provides the opportunity to participate in the development and implementation of marketing and research projects which can impact all aspects of the industry, from the field to the consumer's table. Voting in referenda provides the right to vote on changes in the program—including the current proposed amendment—and on whether the program should continue or be terminated.

To include all handlers under the Plan, this proposed rule would revise § 1210.305 by eliminating the reference to the first person who performs the handling function and by adding a statement that handler does not mean a retailer, wholesale retailer, foodservice distributor, or foodservice operator.

In addition, this rule would amend §§ 1210.308 and 1210.341(a) of the Plan, §§ 1210.402(b) and 1210.404(d) of the nominating procedures issued under the Plan, and §§ 1210.515(a) and 1210.518(a) and (b) of the rules and regulations issued under the Plan in order to remove references to first handlers. It is also necessary to amend §§ 1210.341(c) and 1210.350(a) of the Plan to clarify the assessment and reporting requirements for all handlers. Since § 1210.517 (which concerns determining first handlers) would no longer be necessary if all handlers are covered by the Plan, that section would be removed and reserved. In addition, this rule would add a new § 1210.518(b)(3) to state that the handling party is responsible for the payment of assessments on any handling of watermelons.

This rule would also redesignate §§ 1210.301 through 1210.314 of the Plan as necessary to arrange the definitions in alphabetical order.

A final rule establishing procedures for the referendum on these amendments to the Plan and for future referenda is published separately in this issue of the **Federal Register**.

The final rule on referendum procedures also adds letter designations to the various subparts of the watermelon research and promotion program as follows: the Plan [§§ 1210.301 through 1210.367] will become Subpart A; the Procedures for Nominating Members to the National Watermelon Promotion Board [§§ 1210.400 through 1210.405] will become Subpart B; the Rules and Regulations [§§ 1210.500 through 1210.540] will become Subpart C; and the Referendum Procedures [§§ 1210.600 through 1210.607] will become Subpart D.

The Act requires a referendum for all amendments to the Plan (Subpart A) except a change in the rate of assessment, which may be made after notice-and-comment rulemaking. The Act does not require a referendum for changes to Subparts B, C, and D. Therefore, the proposed amendments to the Plan which are contained in this rule would be the subject of the upcoming referendum. The proposed amendments to Subpart B (nominating procedures) and Subpart C (rules and regulations) which are contained in this rule can be made without a referendum. However, since they are needed only if the amendments to the Plan are approved in the referendum, they will be adopted only if the amendments to the Plan are approved in the referendum.

USDA published a proposed rule on amending the Plan in the **Federal Register** on April 30, 2001 [66 FR 21602]. Comments on the proposed rule were due on June 29, 2001.

AMS received 23 comments regarding the proposed amendments to the Plan. Of the 23 comments, 15 supported the proposed amendments, and eight comments did not support the proposed amendments.

In summary, the 14 comments supporting the amendments cited what they believed were the benefits of the current program and how the revenue from the proposed amendments would improve it by enhancing the industry's ability to compete in a very competitive global marketplace.

The fifteenth comment that supported the proposed amendments expressed concern regarding Board representation of the additional handlers who would be covered by the program if the amendments are adopted. The commenter is opposed to increasing the size of the Board. As explained in the April 30, 2001, proposed rule, the additional handlers would be eligible to serve in the existing handler positions on the Board. There are two handlers for each of seven districts established under the Plan, and this would not change. Therefore, there would be no increase in the size of the Board.

One commenter opposed the proposed amendments because he believed that he would have to pay an additional 2 cents per cwt. However, the commenter may have misunderstood the proposal. Any current producer-handler would not be considered an additional handler required to pay an additional 2 cents per cwt. if the amendments are adopted. A producer-handler's assessment obligation would remain the same, i.e., to pay the 2 cents per cwt. as a producer and the 2 cents per cwt. as a handler.

Three commenters asserted that the current program is unworkable and does not benefit the watermelon industry. They want the Department to conduct a referendum on whether the current watermelon program should be terminated. The Department would conduct a referendum on the entire program if requested by the Board or by 10 percent of the industry.

Two commenters stated that the watermelon program is working well and does not need to be amended. The Department is conducting public rulemaking and a national referendum to determine the level of industry support for the amendments. Therefore, these comments are denied.

One commenter expressed the opinion that the proposed amendments would not treat wholesalers fairly. However, the purpose of the amendments is to treat all watermelon handlers in the same manner. Currently, only first handlers are assessed under

the program. The proposed amendments would also assess other handlers, such as wholesalers, in the watermelon marketing chain. Therefore, this comment is denied.

The last comment opposed to the amendments stated that the proposed amendments are unfair because a majority of the people who would be affected by the proposed amendments will not have a chance to vote on them and national supermarkets would be exempt. The Department and the Board are compiling a list of the additional handlers who would be covered by the amendments so that they will have the opportunity to vote on whether the amendments become effective. In addition, USDA will have a toll-free telephone number for these handlers to call if they do not receive a ballot so that USDA can provide them with a ballot. Also, national supermarkets would not be covered by the amendment because they are in the retail segment of the marketing chain. The purpose of the proposed amendments is to cover all handlers between the grower and the retail segment. Therefore, this comment is denied.

Referendum Order

It is hereby directed that a referendum be conducted among eligible watermelon producers, handlers, and importers to determine whether the Plan and the regulations issued under the Plan should be amended to cover all handlers of watermelons. The amendments to the Plan will be implemented if they are approved by a simple majority of the eligible watermelon producers, handlers, and importers voting in the referendum.

The referendum shall be conducted from December 3, 2001 through January 11, 2002. Ballots will be mailed to all known watermelon producers, handlers and importers on or before November 19, 2001. Eligible voters who do not receive a ballot may call 1–888–720–9917 to request a ballot. All ballots will be subject to verification. Ballots must be received by the referendum agents no later than 4:30 p.m. Eastern Standard Time on January 11, 2002 to be counted.

Daniel R. Manzoni, Margaret B. Irby, and Martha B. Ransom, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2535–S, Stop 0244, Washington, DC 20250–0244, are designated as the referendum agents of the Secretary of Agriculture to conduct the referendum. Subpart D—Referendum Procedures [7 CFR 1210.600–1210.607], which is being published separately in this issue of the **Federal Register**, shall be used to conduct the referendum.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

For the reasons set forth in the preamble, it is proposed that Part 1210 of Title 7, Chapter XI of the Code of Federal Regulations, be amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION

1. The authority citation for 7 CFR Part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

2. Redesignate §§ 1210.301 through 1210.314 as follows:

Old section	New section
1210.301	1210.313
1201.302	1210.301
1210.303	1210.308
1210.304	1210.302
1210.305	1210.314
1210.306	1210.309
1210.307	1210.304
1210.308	1210.305
1210.309	1210.307
1210.310	1210.303
1210.311	1210.310
1210.312	1210.311
1210.313	1210.312
1210.314	1210.306

3. Revise newly designated § 1210.305 to read as follows:

§ 1210.305 Handler.

Handler means any person (except a common or contract carrier of watermelons owned by another person) who handles watermelons, including a producer who handles watermelons of the producer's own production. *Handler* shall not mean a retailer, wholesale retailer, foodservice distributor, or foodservice operator.

4. Amend § 1210.341 by revising paragraphs (a) and (c) to read as follows:

§ 1210.341 Assessments.

(a) Assessments shall be levied on all watermelons produced and handled in and imported into the United States for consumption as human food. Producers shall be assessed 2 cents per hundredweight on the watermelons that they produce. Handlers shall be assessed 2 cents per hundredweight on all watermelons that they handle, including any watermelons handled after their importation into the United States. If a person performs both a producing and a handling function on any lot of domestic watermelons, the person shall pay both the producer assessment and the handler assessment on those watermelons. Importers shall be assessed 4 cents per hundredweight on the watermelons they import at the time of entry of the watermelons into the United States.

* * * * *

(c) Each handler is responsible for payment of the handler assessment to the Board, and each handler who purchases watermelons from a producer is responsible for the collection and payment to the Board of both the producer assessment and the handler's own assessment. A handler who purchases watermelons from a producer may collect the producer assessment from the producer or deduct the assessment from the proceeds paid to the producer on whose watermelons the assessments are made. A handler who purchases from a producer shall maintain separate records for each producer's watermelons handled, including watermelons produced by the handler. In addition, all handlers shall maintain records that indicate the total quantity of watermelons handled by the handler, including those that are exempt under this Plan, and such other information as may be prescribed by the Board.

* * * * *

5. Amend § 1210.350 by revising paragraph (a) introductory text to read as follows:

§ 1210.350 Reports.

(a) Handlers shall report to the Board at such times and in such manner as the Board may prescribe by regulations whatever information may be necessary in order for the Board to perform its duties. In addition, each handler who purchases watermelons from a producer shall maintain a record with respect to each producer for whom watermelons were handled and for watermelons produced and handled by the handler. Such reports may include, but shall not be limited to, the following information:

* * * * *

6. Amend § 1210.402 by revising paragraph (b) to read as follows:

§ 1210.402 Voter and board member nominee eligibility.

* * * * *

(b) Any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity which is engaged in the production or handling of watermelons is considered a person and as such is entitled to only one vote, except that such person may cast proxy votes as

provides in § 1210.403 and § 1210.404 of this subpart.

* * * * *

7. Amend § 1210.404 by revising paragraph (d) to read as follows:

§ 1210.404 Importer member nomination and selection.

* * * * *

(d) Any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity which is engaged in the importing of watermelons is considered a person and as such is entitled to only one vote, except that such person may cast proxy votes as provided in paragraph (e)(1) of this section.

* * * * *

8. Amend § 1210.515 by revising paragraph (a) to read as follows:

§ 1210.515 Levy of assessments.

(a) An assessment of 2 cents per hundredweight shall be levied on all watermelons produced in the United States for ultimate consumption as human food. An assessment of 2 cents per hundredweight shall be levied on all watermelons handled for ultimate consumption as human food. An assessment of 4 cents per hundredweight shall be levied on all watermelons imported into the United States for ultimate consumption as human food at the time of entry into the United States.

* * * * *

9. Remove and reserve § 1210.517.

10. Amend § 1210.518 by revising paragraphs (a) and (b)(1) and by adding a new paragraph (b)(3) to read as follows:

§ 1210.518 Payment of assessments.

(a) *Time of payment.* The assessment of domestically produced watermelons shall become due at the time of each handling of the watermelons for non-exempt purposes. The assessment on imported watermelons shall become due at the time of entry, or withdrawal, into the United States and at the time of each subsequent handling.

(b) *Responsibility of payment.* (1) A handler who purchases watermelons from a producer is responsible for collection and payment of both the producer's and the handler's assessment. A handler may collect the producer's assessment from the producer or deduct the producer's assessment from the proceeds paid to the producer on whose watermelons the producer assessment is made. Any such collection or deduction of producer assessment shall be made not later than the time when the handler handles the watermelons.

* * * * *

(3) The payment of assessments on any handling of watermelons is the responsibility of the handling party.

* * * * *

Dated: October 30, 2001.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 01–27815 Filed 11–6–01; 8:45 am]

BILLING CODE 3410–02–P

Federal Register

Wednesday,
November 7, 2001

Part III

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2001; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4682–N–02]

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2001

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of the granting of regulatory waivers from April 1, 2001, through June 30, 2001.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the most recent **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on April 1, 2001 and ending on June 30, 2001.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10282, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from April 1, 2001 through June 30, 2001. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. For example, a waiver of both 58.73 and 58.74 would appear sequentially in the listing under 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between July 1, 2001 through September 30, 2001.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: October 29, 2001.

Alphonso Jackson,

Deputy Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development April 1, 2001 Through June 30, 2001

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.
II. Regulatory waivers granted by the Office of Fair Housing and Equal Opportunity.
III. Regulatory waivers granted by the Office of Housing.
IV. Regulatory waivers granted by the Office of Multifamily Housing Assistance Restructuring.
V. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The City of Moline, Illinois, requested a waiver of the submission deadline for the City's 2000 program year CAPER.

Nature of Requirement: 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Donna M. Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 22, 2001.

Reasons Waived: The extension was needed because the key person responsible for the report was replaced. The new staff person is unfamiliar with the CAPER requirements and needs additional time to complete the report. The Department determined that there was good cause to grant the waiver. While submission of a timely report is important, it is also important to ensure that the report submitted is accurate. The City received an extension to August 31, 2001 to submit its CAPER.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; Room 7152 (202) 708–2565, ext.4556.

• *Regulation:* 24 CFR 92.212(b).

Project/Activity: Wharton County, Texas requested a waiver of the HOME pre-award

costs requirements. The County must prepare a Consolidated Plan and does not have funds to pay the administrative costs associated with the development of a Consolidated Plan.

Nature of Requirement: 24 CFR 92.12(b) limits pre-award costs for administrative and planning expenses to costs incurred after the beginning of a participating jurisdiction's (PJ) consolidated program year.

Granted By: Donna M. Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: June 15, 2001.

Reasons Waived: HUD determined that there was good cause for the waiver and failure to grant the waiver would create a significant hardship for the County. The PJ is not a CDBG entitlement community and does not receive any CDBG funds. The preparation of a Consolidated Plan is a new undertaking.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, 20410, Room 7152, telephone: (202) 708–2565, ext.4556.

II. Regulatory Waivers Granted by the Office of Fair Housing and Equal Opportunity

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 115.207(d)(1).

Project/Activity: Rockland County Commission on Human Rights, Rockland County, New York '' Certification of Substantially Equivalent Agencies and the Fair Housing Assistance Program.

Nature of Requirement: The regulation at § 115.207(d)(1), restricts the term of the Agreement for the Interim Referral of Complaints and Other Utilization of Services (interim agreement) to no more than three years.

Granted By: Floyd O. May, Deputy Assistant Secretary for Operations and Management.

Date Granted: March 1, 2001.

Reason Waived: During the second year of the interim agreement, Rockland County Commission on Human Rights (RCCHR) developed unexpected problems. During the third year, the Department provided RCCHR with a Performance Improvement Plan. RCCHR is now performing in a satisfactory manner and has the ability to fulfill its programmatic obligations. This waiver extended the interim agreement of RCCHR and authorized RCCHR to continue receiving capacity building funds for a fourth year.

Contact: Kenneth J. Carroll, Office of Fair Housing and Equal Opportunity, Office of Programs, FHIP/FHAP Support Division, Department of Housing and Urban Development, Room 5222, 451 Seventh Street, SW, Washington, DC 20410; telephone: (202) 708–0883, extension 7407.

III. Regulatory Waivers Granted by the Office of Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.85(b).

Project/Activity: Lambert House North, South and East Project Numbers 012–55125, 012–55240, 012–55250, New York, New York.

Nature of Requirement: Section 200.85(b) prohibits an inferior lien from being placed on a property with a HUD-insured mortgage, which will be repaid from mortgage proceeds other than surplus cash or residual receipts, except in the case of the inferior lien created by an operating loss insured pursuant to section 223(d) of the National Housing Act (12 U.S.C. 1701 *et seq.*), or a supplemental loan insured pursuant to section 241 of the National Housing Act.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 9, 2001.

Reason Waived: This waiver was granted after the New York Multifamily Hub's review of the owner's budget submission and determination that the projects are generating sufficient funds to support the pay back of the new uninsured loans. Allowing this loan to be serviced from operating cash will enable these projects to be repaired and continue to serve as an affordable housing resource for the public.

Contact: Ronald W. Wallace, Field Asset Management Division, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6176, Washington, DC 20410; telephone: (202) 708–0614, extension 2590.

• *Regulation:* 24 CFR 202.3(c)(2)(iii).

Project/Activity: Credit Watch/Termination Threshold, Washington, D.C.

Nature of Requirement: To raise the threshold for placing a HUD/FHA approved lender on Credit Watch status when its default and claim rate exceeds the field office default and claim rate.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 27, 2001.

Reason Waived: Waiving the regulation permits HUD/FHA to initially focus on those lenders originating the worst performing loans. The waiver will adjust the Credit Watch threshold from being between 150% and 200.9% of the HUD field office default and claim rate to being between 200% and 300.9% of that rate. This waiver is limited to Credit Watch reviews conducted in the second quarter of FY 2001.

Contact: Joy L. Hadley, Director, Quality Assurance Division, Department of Housing and Urban Development, 451 Seventh Street SW, Room B133-P3214, Washington, DC 20410; telephone: (202) 708–2830.

• *Regulation:* 24 CFR 203.357(c), 203.370(c)(1) & (4), 203.673(c), 203.674(b)(1)–(4), 203.675, 203.676, 203.677, 203.678.

Project/Activity: United Pathways Foundation, Pembroke Pines, Florida.

Nature of Requirement: Section 203.673(c) precludes reimbursement for relocation expenses during repairs; 24 CFR 203.674(b)(1), (2), (3) and (4) states some of the required conditions for continued occupancy for an occupant who does not meet the illness or injury criteria; 24 CFR 203.675 sets out the requirements for adequate notice to occupants of pending acquisition; 24 CFR 203.676 states that an occupant must request continued occupancy within 20 days after notice of pending acquisition; 24 CFR 203.677 details the Department's procedures in its decision to approve or deny a request for occupied conveyance; 24 CFR 203.678 requires that a property be conveyed to HUD vacant; 24 CFR 203.370(c)(1) and (4) requires that in order to be considered for the pre-foreclosure sale procedure, one must be an owner-occupant in a single family residence that is security for an FHA-insured mortgage, and one must have received homeownership counseling; 24 CFR 203.357(c) requires a mortgagee to obtain prior written consent from the Commissioner in order to accept a deed in lieu of foreclosure from an individual who owns more than one FHA-insured property.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Date Granted: April 25, 2001.

Reason Waived: Regulations were waived in order to allow the Department to use loss mitigation approaches to dispose of 111 properties securing FHA-insured mortgages in various states of default and foreclosure, while protecting the tenants. The properties' owner, United Pathways Foundation, had filed for Chapter 11 bankruptcy.

Contact: Joe McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh SW, Washington, DC 20410; telephone: (202) 708–1672.

• *Regulation.* 24 CFR 203.370(c)(1) & (4).

Project/Activity: Non-profit mortgagors in New York City area.

Nature of Requirement: Sections 203.370(c)(1) and (4) require that, in order to be considered for the pre-foreclosure sales procedure, one must be an owner-occupant in a one-to-four family dwelling that is security for an FHA-insured mortgage, and one must have received homeownership counseling.

Granted By: Sean G. Cassidy, Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: May 8, 2001.

Reason Waived: In aggregate, these non-profit mortgagors own approximately 719 properties located in and around New York City. Fraudulent activities of some sellers, originating mortgagees, appraisers, title companies, and others, resulted in under-funding the rehabilitation, incomplete rehabilitation, insufficient rental income to service the debt, and mortgage default. Many of the non-profit mortgagors were misled by assurances that consultants would oversee the rehabilitation of the properties and that the rehabilitated properties would generate sufficient cash flow. Many of the non-profit mortgagors lacked the financial capacity and experience to rehabilitate the properties.

Regulations were waived in order to allow the Department to consider pre-foreclosure purchase offers for less than the full indebtedness on these properties. The regulation provides that the mortgagor must be an owner-occupant in order to be eligible for the pre-foreclosure sale program. Non-profit mortgagors are not owner-occupant mortgagors. The regulation also provides that

the owner must receive housing counseling about loss mitigation alternatives before a pre-foreclosure sale would be considered. Housing counseling is geared towards owner-occupant mortgagors. The non-profit mortgagors receive(d) similar information through means other than counseling. Pre-foreclosure sales reduce the losses incurred by the insurance funds because HUD does not have to include the expense of foreclosure proceedings in the payments for insurance claims.

Contact: Joe McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–1672.

• *Regulation:* 24 CFR 203.670(b), 203.673(b), 203.674(a)(1), and 203.675(b).

Project/Activity: St. Ambrose Housing Aid Center, Baltimore, Maryland.

Nature of Requirement: These regulations prohibit the Secretary from accepting properties which are conveyed occupied.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: May 17, 2001.

Reason Waived: These waivers are appropriate because the occupant is a victim of predatory lending activities in the Baltimore pilot project. The occupant was also the subject of a ''Fleecing of America'' segment on NBC News. The occupant's mortgage was determined to be based on a grossly inflated property value. Unfortunately, the originating lender, American Skycorp, Inc., is no longer in business. Therefore, no restitution can be obtained from her former lender. Her mortgage is currently in foreclosure and her credit history is such that the occupant cannot qualify for another loan.

St. Ambrose Housing Aid Center, a HUD approved housing counseling agency and housing provider, has agreed to purchase the property following acquisition by the Department through a deed in lieu of foreclosure. The occupant will remain in the property and become a tenant of St. Ambrose Housing Aid Center. After the property is conveyed to HUD, the M&M contractor will make certain repairs to the property as well as replace the furnace and water heater. Unless the actions are taken, the property may fail to meet HUD's Habitability Standards. During the time the occupant is a tenant, she will receive counseling and help to repair her credit status. When the occupant is eligible for a mortgage loan, St. Ambrose will sell the property to the occupant.

Contact: Trudy Dotson, Asset and Property Disposition Division, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–1672.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Bethel Church Homes I and II, FHA Project Numbers 061–35006 and 061–55035, Athens, Georgia.

Nature of Requirement: Section 219.220(b) governs the repayment of assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996. This provision requires repayment of the flexible subsidy loan at time of prepayment.

Granted By: Sean G. Cassidy, General Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: This waiver was granted in order to allow the owner of Bethel Church Homes I and II to repay the existing mortgage, obtain one new FHA-insured mortgage and perform substantial rehabilitation of the properties. This will allow the flexible subsidy loans to remain as soft second and third mortgages. If the waiver had not been granted, the owner would not have had the available funds to repay the flexible subsidy loans and he would not be able to obtain the FHA-insured financing of the new mortgage, thereby losing the opportunity to improve this much needed housing for low-income citizens of Athens, Georgia.

Contact: Cindy W. Bridges, Field Asset Management Division, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6160, Washington, DC 20410; telephone: (202) 708–0614, extension 2603.

• *Regulation:* 24 CFR 234.26(b).

Project/Activity: Temporary establishment of approval process for condominium projects and FHA mortgage insurance on condominium units located in the Commonwealth of Puerto Rico.

Nature of Requirement: Section 234.26(b) requires that a condominium project be committed to a plan of condominium ownership by a deed, or other recorded instrument that is acceptable to the Department.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 11, 2001.

Reason Waived: The regulation was waived to permit the approval of condominium projects and insurance of individual units in condominiums whose plans for ownership have been presented to the Commonwealth of Puerto Rico Registry for recordation but not yet recorded, provided that title insurance is obtained on each unit insured. Under Puerto Rico's inscription process, legal documents creating a condominium regime are first ''presented'' to the Commonwealth of Puerto Rico Registry for review. Acceptable documents are then recorded. Due to current backlog, this process can take several years. At presentment a condominium is established and during the review process a purchaser acquires a fee interest in the unit together with a common, undivided interest in the common areas. This waiver is effective for one year from the date it was granted and shall not involve more than 3,064 dwelling units.

Contact: Vance T. Morris, Director Office of Single Family Production, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–2121 extension 2204.

• *Regulation:* 24 CFR 234.26(e)(3).

Project/Activity: Insurance for a mortgage on an individual unit in Mt. Vernon Lake Condominium, Alexandria, Virginia.

Nature of Requirement: Section 234.26(e)(3) requires that at least 51% of all family units in a condominium project be occupied by the owners as a principal or secondary residence, or have been sold to owners who intend to meet this occupancy requirement.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 27, 2001.

Reason Waived: The regulation was waived to insure a HUD-owned condominium in a condominium project that had an owner-occupancy rate of 43%. The Department has an interest in the continued viability of the condominium project because there are other HUD-insured properties in the project. The individual unit benefited by this waiver was in good condition and being sold at 105% of the list price to an owner-occupant. Sale of the unit would eliminate further marketing costs to the Department.

Contact: Vance T. Morris, Director, Office of Single Family Production, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–2121 extension 2204.

• *Regulation:* 24 CFR 291.100(a)(2).

Project/Activity: Granting a former mortgagor a right of first refusal on a property in Lake Worth, Florida.

Nature of Requirement: Section 291.100(a)(2) prohibits HUD from allowing a former mortgagor in occupancy, who has defaulted on the mortgage, the right of first refusal to repurchase the same property.

Granted By: Sean Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: May 31, 2001.

Reason Waived: The waiver is appropriate since the occupant is 100% disabled as a result of an accident. At the present time she has received a monetary settlement, which includes a monthly allocation for life. The occupant has spent approximately $40,000 of her money modifying the residence to handicapped accessible standards. An interior and exterior inspection of the property revealed that the occupant has maintained it in a highly satisfactory manner. The property has been appraised at $100,000 and the occupant has obtained her own financing. In light of the occupant's medical condition, financial capacity and ability to maintain the property this waiver was granted.

Contact: Trudy Dotson, Asset Management and Disposition Division, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–1672.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Charles O. Miles Manor, Ecorse, Michigan, Project Number: 044–EE064/MI28–S991–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The State of Michigan had experienced a large increase in the cost of developing new projects and many contractors used a ''take it or leave it'' pricing approach, and the Sponsor had secured funds from Wayne County's City Home funds and the Weinberg Foundation.

Contact: Faye Norman, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, Washington, DC 20410; telephone: (202) 708–0614 extension 2482.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Liberty Apartments, Fulton, Missouri, Project Number: 085–HD028/MO36–Q991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The shape and topography of the site required additional grading and construction of a retaining wall to achieve proper drainage away from the building, bids for the electrical and plumbing contracts came in at a much higher rate than anticipated, the high cost factor of 156 percent was not sufficient for the Fulton area, the project was economically designed and was comparable to other similar projects developed in the area.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Jordan Bay Place, Raymond, Maine, Project Number: 024–EE050/ME26–S991–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project was economically designed, comparable to similar projects in the area, and the Sponsor/Owner had exhausted all efforts to obtain additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mt. Olive Elderly Coop, Randallstown, Maryland, Project Number: 052–EE032/MD06–S991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: Material costs had risen, there was a shortage of skilled laborers, which has caused the overall cost of construction to rise, and the project was economically designed and comparable to other similar projects constructed in the area.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, Washington, DC 20410; telephone: (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Roxbury Senior Housing, Roxbury, Connecticut, Project Number: 017–EE039.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project was economically designed, comparable in cost to similar projects, and the Sponsor could not contribute any additional funds.

Contact: Monique Love, Office of Housing Assistance Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 2475.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Kirkland Union Plaza, Vancouver, Washington, Project Number: 126–EE028/OR16–S981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project was economically designed, comparable to similar projects in the area and the Owner had secured funds from the City of Vancouver and the Vancouver Housing Authority.

Contact: Faye Norman, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 2482.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Diamond Springs Phase II, Diamond Springs, California, Project Number: 136–EE053/CA30–S991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project was economically designed, comparable to similar projects in the area, and the Sponsor/Owner had exhausted all efforts to obtain additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: West Hamlin Unity Apartments, West Hamlin, West Virginia, Project Number: 045–HD026/WV15–Q971–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 6, 2001.

Reason Waived: The project was economically designed, comparable to similar project in the area, and the Sponsor/Owner had exhausted all efforts to obtain additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Immacolata Manor Homes, Liberty, Missouri, Project Number: 084–HD031/MO16–Q991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 6, 2001.

Reason Waived: The project was economically designed, comparable to similar projects in the area, and the Sponsor/Owner had exhausted all efforts to obtain additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Woodbury Senior Housing, Woodbury, Connecticut, Project Number: 017–EE044/CT26–S981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 10, 2001.

Reason Waived: The project was economically designed, comparable to other similar projects in the jurisdiction, and all efforts to lower the cost of the project had been exhausted.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mill Pond Village, Montrose, Virginia, Project Number: 051–EE072/VA36–S991–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 16, 2001.

Reason Waived: The project was modest in design and the development team had taken all reasonable steps to assure a cost effective project.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Twin Elm Project, Nassau County, New York, Project Number: 012–HD080/NY36–Q981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 6, 2001.

Reason Waived: The Owner had exhausted all efforts to find additional funds from other sources. Also, a delay of over one year was encountered due to issues associated with incorporation.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 2475.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Washington Court, Red Bluff, California, Project Number: 136–EE046/CA30–S981–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 6, 2001.

Reason Waived: There were 2530 flags placed on both the Owner and management agent, and the project was economically designed and comparable to other similar projects developed in the area. Also, the project experienced delays while the 2530 process was being resolved.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: St. Peter's Place II Elderly Housing, Borough of Phoenixville, Chester County, Pennsylvania, Project Number: 034–EE070/PA26–S971–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 9, 2001.

Reason Waived: Delays were caused due to problems the Owner had in identifying a qualified general contractor. Also, the project was economically designed, comparable to other similar projects developed in the jurisdiction, and the Sponsor had exhausted all efforts to obtain additional funding from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Gibbstown VOA Elderly Housing, Township of Greenwich, Gloucester County, New Jersey, Project Number: 035–EE030/NJ39–S971–007.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 10, 2001.

Reason Waived: The project was economically designed, comparable to similar projects in the area and the Sponsor/Owner had exhausted all efforts to obtain additional funds from outside sources. Also, the project had been delayed due to unanticipated changes in fees charged by the Town of Greenwich, increased contractor fees, easement negotiations, and title policy changes.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Accessible Space, Inc., Universal City, Texas, Project Number: 115–HD025/TX59–Q971–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 16, 2001.

Reason Waived: Additional funds were needed to make the facility 100 percent accessible to persons with severe mobility impairments. Also, delays occurred while the Sponsor/Owner sought funds to make the project fully accessible and while their project was being redesigned to meet new City requirements.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614, extension 6791.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Mountain View Housing, Westfield, Massachusetts, Project Number: 023–EE101/MA06–S981–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 16, 2001.

Reason Waived: The project was economically designed, comparable to other projects developed in the area, and the Sponsor/Owner had exhausted all efforts to obtain additional funds from outside sources. Also, additional time was needed to resolve a leasehold issue with the Commonwealth of Massachusetts in order to sell State-owned property designated for the project, resolve the issue involving the boiler and heating plant, and secure a waiver of the prohibition against leasehold payment capitalization.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614, extension 3821.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Reno Supportive Housing Development, Reno, Nevada, Project Number: 125–HD066/NV39–Q981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 18, 2001.

Reason Waived: The project was delayed due to the switching of architectural firms and the resolution of a dispute with the State of Nevada Architectural Board. Also, the project was economically designed, comparable to other similar projects developed in the jurisdiction, and the Sponsor had exhausted all efforts to obtain additional funding from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614, extension 6788.

• *Regulation:* 24 CFR 891.130(a).

Project/Activity: Christopher Housing, Scattered Sites, Washington, Project Number: 127–HD018/WA19–Q961–001.

Nature of Requirement: Prohibited Relationships.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The waiver was to permit Mr. Stephen Norman, who serves as a member of the board of Aids Housing of Washington, one of the co-Sponsors of the project, to also serve as the Executive Director for the Housing Authority of King County, which was the Management Agent for the project. Since Mr. Norman was the Executive Director of the Housing Authority of King County before he became a board member of Aids Housing of Washington, that he received no compensation for the latter position, and it was difficult to obtain a Management Agent that would accept a small number of units over such a widespread area, the waiver was granted.

Contact: Gail Williamson, Office of Housing Assistance and Grant Administration, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 2473.

• *Regulation* 24 CFR 891.165.

Project/Activity: Howard Street Senior Apartments, San Francisco, California, Project Number: 121–EE121/CA39–S981–014.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project had to be conveyed from the San Francisco Housing Authority and required approval from several levels of State and local government.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Steamboat Trails, New Richmond, Ohio, Project Number: 046–EE045/OH10–S981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The original site was withdrawn by the seller and the development team had to locate a new site which would allow them to utilize the original building design and site plan.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Old Oak Arch, Virginia Beach, Virginia, Project Number: 051–HD079/VA36–Q991–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: Delays were caused by the Sponsor trying to resolve cost problems in order to keep project development costs within the fund reservation amount.

Contact: Brenda Butler, Office of Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 6788.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Vermont Seniors, Los Angeles, California, Project Number: 122–EE148/CA16–S981–007.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project had been delayed due to demolition of commercial and residential structures, additional funding for land acquisition and predevelopment costs and the resolution of a legal dispute involving the site.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension, 2651.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Three Bridges, Newark, New Jersey, Project Number: 031–EE042/NJ39–S961–008.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The Owner was obtaining bids from various contractors and would be submitting a revised application for Firm Commitment.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension, 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Holy Rosary Senior Housing, Union City, New Jersey, Project Number: 031–EE049/NJ39–S981–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project experienced delays while the Sponsors sought secondary financing from other sources for demolition and remediation of the site in addition to development expenses.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Oscar House, Northridge, California, Project Number: 122–HD112/CA36–Q981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The delay in beginning construction was due primarily to efforts to bring the project in at a reasonable cost.

Contact: Carissa Janis, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 2487.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cedar Street Senior Apartments, Garberville, California, Project Number: 121–EE118/CA39–S981–011.

Nature Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The project had been delayed due to complications with site formation, adverse market conditions for obtaining suitable comparables and resolution of title issues involving the legal formation of the site.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension, 2651.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ryder Assisted Care II, Humacao, Puerto Rico, Project Number: 056–HD014/RQ46–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The geo-technical engineer, architect and contractor were very active trying to find a cure to the site subsurface contingency.

Contact: Monique Love, Office of Housing and Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–0614, extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ryder Village II, Humacao, Puerto Rico, Project Number: 056–EE031/RQ46–S971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The geo-technical engineer, architect and contractor were very active trying to find a cure to the site subsurface contingency.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202)708–0614, extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Friendship Plaza, Lincoln Heights, Ohio, Project Number: 046–EE047/OH10–S981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The original contractor's construction costs were significantly higher than the Capital Advance fund reservation and the co-Sponsors had to solicit bids from other contractors.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Access House I, Parsippany-Troy Hills, New Jersey, Project Number: 031–HD078/NJ39–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: The Building Department for the Township of Parsippany-Troy Hills could not issue building permits for the project because they were waiting for a Letter of Interpretation from the New Jersey Department of Environmental Protection.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202)708–0614, extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ridgeview Terrace I, Ashtabula, Ohio, Project Number: 042–EE106/OH12–S981–009.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: Obstacles concerning road access had to be addressed prior to receiving building permits and the Department of Highways requested that storm water run-off be redirected which necessitated reengineering of the site plan.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, Washington, DC 20410; telephone: (202)708–0614, extension 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ziegler Homes, Toledo, Ohio, Project Number: 042–HD058/OH12–Q961–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 2, 2001.

Reason Waived: Bids had to be solicited from other contractors to address budget overruns and additional funds from outside sources would not be available until March 2001 to cover the cost of development in excess of the Capital Advance.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension, 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cold Spring House, Forestburgh, New York, Project Number: 012–HD075/NY36–Q971–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 5, 2001.

Reason Waived: The project had been delayed due to unresolved legal issues for initial closing.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension, 2651.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Orange Senior Housing, Orange Essex County, New Jersey, Project Number: 031–EE048/NJ39–S981–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital

advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 9, 2001.

Reason Waived: There was a delay due to the change in architect and revisions that needed to be made in the project designs and plans.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614, extension 2651.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cottonwood Manor V, Cottonwood, Arizona, Project Number: 123–EE066/AZ20–S981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 9, 2001.

Reason Waived: Delays were caused by the excessive amount of time taken to design the project and to locate a qualified general contractor to build the project within the budget.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension, 6788.

• *Regulation:* 24 CFR 891.165.

Project/Activity: La Playa Apartments, San Francisco, California, Project Number: 121–HD065/CA39–Q981–002.

Nature Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 9, 2001.

Reason Waived: The site, which was one block from the Pacific Ocean and subject to California coastal controls, had to undergo time consuming investigations and certifications by the City of San Francisco.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension, 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ottawa River Estates, Toledo, Ohio, Project Number: 042–HD072/OH12–Q971–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 10, 2001.

Reason Waived: The Sponsor was tied up in litigation concerning the sale of the land designated for the project.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614, extension 3821.

• *Regulation:* 24 CFR 891.165.

Project/Activity: North Pine Street Senior Housing, Ukiah, Mendocino County, California, Project Number: 121–EE119/CA39–S981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 10, 2001.

Reason Waived: The project experienced significant delays while the Department reviewed and approved the partial release of a portion of an existing Section 202 project upon which the project was to be located.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614, extension 6788.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Abraham Lincoln Center, Chicago, Illinois, Project Number: 071–HD095/IL06–Q961–010.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 12, 2001.

Reason Waived: The field office was awaiting a revised Firm Commitment application.

Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614, extension 5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Project Live VIII, Glen Ridge, New Jersey, Project Number: 031-HD092/NJ39-Q981–007.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 12, 2001.

Reason Waived: The field office was processing the Firm Commitment.

Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614, extension 5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: West Street Commons, Wilmington, Delaware, Project Number: 032–HD018/DE26–Q961–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 12, 2001.

Reason Waived: Major revisions/design changes were made to the project, the site changed three times, new core development team members were hired, and it was required that the new development team members entirely redo the application exhibits.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, D.C. 20410, telephone: (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Rudolph Mercy Douglass Home for the Blind, Philadelphia, Pennsylvania, Project Number: 034-HD052/PA26-Q971–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 16, 2001.

Reason Waived: The Sponsor had a commitment toward secondary funding from the Philadelphia Redevelopment Authority and the documents for the transaction were being finalized.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Volunteers of America, Thomaston, Maine, Project Number: 024–EE038/ME36–S971–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration

of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Waived: April 18, 2001.

Reason Waived: The Owner incurred significant delays due to a need to change sites.

Contact: Alicia Anderson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 5787.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Northwest Behavioral Health Services, Inc., Jacksonville, Duval County, Florida, Project Number: 063–HD013/FL29–Q981–010.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 18, 2001.

Reason Waived: The project experienced delays due to outstanding design issues related to Fair Housing requirements and comments were pending from a geo-technical engineer.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone: (202) 708–0614 extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Pine Street Inn, Dorchester, Massachusetts, Project Number: 023–EE098/MA06–S981–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservations for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 18, 2001.

Reason Waived: The Sponsor had to locate an alternate site.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone: (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.410.

Project/Activity: Joseph J. Vinopal Villa, FHA Project Number 075–EE041–NP/WAH/L8, Almena, Wisconsin.

Nature of Requirement: HUD regulations at 24 CFR 891 limit occupancy to Very Low Income elderly persons, i.e., households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Granted: April 12, 2001.

Reason Waived: This waiver has been approved due to the project's severe problems in maintaining project occupancy. The owner has been actively marketing the project; however, the demand for its units is not as strong as anticipated; therefore, the age and income requirements are waived in order to allow management to rent to persons between the ages of 55 and 62 and also persons above the very low income limit but at or below the low income limit. The granting of this waiver will provide additional flexibility for short-term marketing and attempt to rent up vacant units.

Contact: Gloria Burton, Field Asset Management Division, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6176, Washington, DC 20410; telephone: (202) 708–0614, extension 2611.

• *Regulation:* 24 CFR 891.575 and 891.610(c).

Project/Activity: Parker Heights Apartments, FHA Project Number 033–EE019, Parker, Pennsylvania. The Philadelphia Multifamily Hub has requested waiver of this regulation due to chronic vacancy problems.

Nature of Requirement: HUD regulations at 24 CFR Part 891 limit occupancy to Very Low Income elderly persons, i.e., households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Date Waived: April 2, 2001.

Reason Waived: The General Deputy Assistant Secretary has approved this waiver because the subject project has been unable to maintain full occupancy when turnover occurred due to its location in an impoverished area. A waiver of the income requirements was requested to alleviate the problem. A waiver was granted in the past to permit low income elderly applicants which enabled the property to rent up. This outreach effort would allow management to extend occupancy to those of low income; thereby providing additional flexibility in attempting to rent up vacant units.

Contact: Cindy W. Bridges, Field Asset Management Division, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6160, Washington, DC 20410; telephone: (202) 708–0614, extension 2603.

• *Regulation:* 24 CFR 891.575 and 891.610(c).

Project/Activity: Pioneer Place, IV, Project No. 075–EE021/NO/WAH, Poynette, Wisconsin.

Nature of Requirement: HUD regulations at 24 CFR 891 limit occupancy to Very Low Income (VLI) elderly persons, i.e., households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 27, 2001.

Reason Waived: This waiver was granted to allow the project to market vacant units to low income persons between 51–80 percent of median income and ages 62 and older. This waiver is an attempt to allow management to market vacant units to this group; and thereby maintain the viability of this project.

Contact: Gloria Burton, Field Asset Management Division, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street SW, Room 6176, Washington, DC 20410; telephone: (202) 708–0614, extension 2611.

IV. Regulatory Waivers Granted by the Office of Multifamily Housing Assistance Restructuring (OMHAR)

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
01235280	1041 Bushwick Avenue Apts.	NY
08444114	Avon Apartments	MO
08444114	Avon Apartments	MO
08444114	Avon Apartments	MO
01257058	Roosevelt Gardens	NY
01257100	Sebco VI	NY
03435081	Whitehall Acres Apartments.	PA

Nature of Requirement: 24 CFR 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after 1/1/98. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: April 12, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
08444156	Bainbridge Apts	MO
08444156	Bainbridge Apts	MO′
03535063	Barclay Arms	NJ

FHA No.	Project name	State
01257049	Eastern Parkway	NY
09335071	Fraser Tower	MT
08335268	Golden Harvest Village	KY
08735012	Greeneville Manor Apartments.	TN
08135087	Gunn Garden Apartments.	TN
09135060	Lakeview Terrace Apartments.	SD
04535087	Lewis Terrace/Tabor Tower.	WV
01257107	MBD I	NY
01257054	President Arms	NY
12735298	South Bayview Apartments.	WA
12135634	Sunnyside Glen Apartments.	CA
01635054	The Colony	RI
01410009	Towne Gardens Housing Dev.	NY
08435142	Victoria Arms Apartments.	MO

Nature of Requirement: 24 CFR 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after 1/1/98. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: May 1, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
01257138	Academy Gardens	NY
08335257	Carter Court	KY
04235088	Delaware Acres	OH
10235148	Newton Plaza Apartments.	KS
04644088	SEM Villa I	OH
01235277	Seward Manor	NY
08335232	The Bedford House	KY

Nature of Requirement: 24 CFR 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after 1/1/98. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: June 11, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

V. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 982.51 (a) and (b).

Project/Activity: New Hampshire Housing Finance Authority (NHHFA), New Hampshire; project-based assistance. NHHFA requested a waiver to permit it to select owner proposals for project-based assistance (PBA) as part of its recent advertisement for proposals for new development of affordable housing under its multifamily housing production initiative rather than separately seeking owner proposals for project-based assistance. NHHFA would provide project-based assistance for up to 300 units to the highest-ranking proposals selected under its multifamily housing production initiative.

Nature of Requirement: The regulation requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Gloria J., Cousar, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 20, 2001.

Reason Waived: Approval of the waivers will provide for new development of affordable rental housing units for very low and extremely low-income families. Fewer than 15 percent of New Hampshire rental units are affordable to very low-income renters. The approval also supports the NHHFA's multifamily housing production initiative. The NHHFA program requires that 50 percent of the units in a development be rented to very low-income families or at rents affordable for very low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; Room 4210, telephone: (202) 708–0970.

• *Regulation:* 24 CFR 982.352(c)(6) and (8).

Project/Activity: Santa Barbara Housing Authority (SBHA), Santa Barbara, CA, housing choice voucher program. SBHA requested a waiver to permit it to combine other housing subsidies including HOME subsidies, with voucher assistance. Several non-profit organizations that serve the disabled community wanted to provide additional subsidies for voucher participants to enable them to rent units above the payment standard. The non-profit community organizations and SBHA were concerned that the voucher subsidy alone is inadequate for many vouchers holders to secure housing because the Santa Barbara County rental market is extremely tight, gross rents typically exceed payment standards.

Nature of Requirement: The regulation prohibits a family from receiving tenant-based assistance while receiving tenant-based assistance under the HOME program, any local or State rent subsidy, or any other duplicative Federal, State or local housing subsidy as determined by HUD.

Granted By: Gloria J., Cousar, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: April 18, 2001.

Reason Waived: Approval of the waivers will increase the probability that voucher holders in the SBHA voucher program can secure housing in Santa Barbara County, and permit voucher holders who require housing in Santa Barbara County to avoid undue hardship.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; Room 4210, telephone: (202) 708–0970.

• *Regulation:* 24 CFR 982.503(c)(2)(ii)

Project/Activity: Arlington Housing Authority, Massachusetts, Housing Choice Voucher Program.

Nature of Requirement: The regulation provides that the HUD field office may approve an exception payment standard between 110 and 120 percent of the published Fair Market Rent if required as a reasonable accommodation for a family that includes a person with disabilities.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: June 27, 2001.

Reason Waived: Approval of the waiver to allow the field office to approve an exception payment in excess of 120 percent made it possible for a family that includes a person with disabilities to remain in their current unit for one year until the family is able to obtain assistance to search for suitable alternative housing.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; Room 4210, telephone: (202) 708–0477.

• *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Duluth Housing Authority, MN.

A request was made to permit the Authority to benefit from energy performance contracting for developments that have tenant-paid utilities. The PHA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities.

Nature of Requirement: Under 24 CFR part 990, Performance Funding System (PFS) energy conservation incentive that relates to

energy performance contracting currently applies to only PHA-paid utilities. The Duluth Housing Authority has both PHA-paid and tenant-paid utilities.

Granted By: Gloria J. Cousar, Acting General Deputy Assistant Secretary.

Date Granted: April 24, 2001.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology for doing so. The Duluth Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Washington, DC 20410; Room 4216; telephone: (202) 708–1872.

- *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Flint Area Consolidated Housing Authority, GA.

A request was made to permit the Authority to benefit from energy performance contracting for developments, which have tenant-paid utilities. The PHA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities.

Nature of Requirement: Under 24 CFR part 990, Performance Funding System (PFS) energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities. The Flint Area Consolidated Housing Authority has both PHA-paid and tenant-paid utilities.

Granted By: Gloria J. Cousar, Acting General Deputy Assistant Secretary.

Date Granted: April 24, 2001.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology or doing so. The Flint Area Consolidated Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Washington, DC 20410; Room 4216; telephone: (202) 708–1872.

- *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Dublin Housing Authority, GA.

A request was made to permit the Authority to benefit from energy performance contracting for developments, which have tenant-paid utilities. The PHA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities.

Nature of Requirement: Under 24 CFR Part 990, Performance Funding System (PFS) energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities. The Dublin Housing Authority has both PHA-paid and tenant-paid utilities.

Granted By: Gloria J. Cousar, Acting General Deputy Assistant Secretary.

Date Granted: May 16, 2001.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology for doing so. The Dublin Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Washington, DC 20410; Room 4216; telephone: (202) 708–1872.

- *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Rock Island Housing Authority, IL.

A request was made to permit the Authority to benefit from energy performance contracting for developments, which have tenant-paid utilities. The PHA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities.

Nature of Requirement: Under 24 CFR part 990, Performance Funding System (PFS) energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities. The Dublin Housing Authority has both PHA-paid and tenant-paid utilities.

Granted By: Gloria J. Cousar, Acting General Deputy Assistant Secretary.

Date Granted: May 14, 2001.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology for doing so. The Rock Island Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Washington, DC 20410; Room 4216, telephone: (202) 708–1872.

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Part IV

Department of Housing and Urban Development

24 CFR Parts 201 and 202
Strengthening the Title I Property Improvement and Manufactured Home Loan Insurance Programs and Title I Lender/Title II Mortgagee Approval Requirements; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 201 and 202

[Docket No. FR–4246–F–02]

RIN 2502–AG95

Strengthening the Title I Property Improvement and Manufactured Home Loan Insurance Programs and Title I Lender/Title II Mortgagee Approval Requirements

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations for the Title I Property Improvement and Manufactured Housing Loan Insurance programs. The final rule also increases the net worth requirements applicable to both the Title I and Title II Single Family Mortgage Insurance programs. The changes are designed to enhance program controls and strengthen the financial viability of the programs. This final rule follows publication of a March 30, 2000 proposed rule, and takes into consideration the public comments received on the proposed rule.

DATES: *Effective Date:* The amendments to §§ 201.27 and 202.8 are effective on May 7, 2002. All other provisions of this final rule are effective on December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—HUD's March 30, 2000 Proposed Rule

On March 30, 2000 (65 FR 17120), HUD published for public comment a proposed rule to amend HUD's regulations for the Title I Property Improvement and Manufactured Housing Loan Insurance program. While HUD believes that Title I property improvement and manufactured home loans fill an important role otherwise unserved by either public or private lending products, HUD has determined that the program can be strengthened by implementing new financial and program controls. Accordingly, HUD issued the March 30, 2000 proposed rule, which proposed to make several changes to the Title I and lender approval program regulations at 24 CFR parts 201 and 202, respectively. The proposed amendments were designed to protect the financial interests of the Federal Housing Administration (FHA), taxpayers, and the vast majority of borrowers and lenders who comply fully with the requirements of the Title I program.

Among other proposed amendments, the March 30, 2000 proposed rule would:

1. Require that a lender disburse Title I dealer property improvement loan proceeds either solely to the borrower, or jointly to the borrower and dealer or other parties to the transaction;

2. Require that a lien securing a property improvement loan in excess of $7,500 must occupy no less than a second lien position;

3. Require that lenders disburse the proceeds of a direct property improvement loan in excess of $7,500 using a draw system similar to that used in construction lending;

4. Require that the lender conduct a telephone interview with the borrower before the disbursement of dealer property improvement loan proceeds;

5. Conform the liquidity requirements applicable to the Title I program to those currently applicable to the Title II Single Family Mortgage Insurance program;

6. Clarify that required loan reports must be submitted on the form prescribed by the Secretary, and must contain the data prescribed by HUD;

7. Increase the insurance charge for Title I property improvement and manufactured housing loan insurance; and

8. Expand and strengthen the on-site inspection requirements applicable to dealer and direct property improvement loans.

HUD also proposed to increase the net worth requirements for both Title I and Title II loan correspondents. Specifically, the March 30, 2000 proposed rule would raise the minimum net worth requirement for Title II loan correspondent mortgagees and Title I loan correspondent lenders from $50,000 to $75,000. The proposed rule would also raise the current minimum net worth requirements for Title I property improvement loan and manufactured home dealers from $25,000 and $50,000, respectively, to $75,000.

The preamble to the March 30, 2000 proposed rule provides additional details regarding the proposed amendments to 24 CFR parts 201 and 202.

II. Significant Differences Between the March 30, 2000 Proposed Rule and This Final Rule

This rule follows publication of the March 30, 2000 proposed rule, and takes into consideration the public comments received on the proposed rule. The most significant differences between this final rule and the March 30, 2000 proposed rule are as follows. These changes are discussed in greater detail in Section III of this preamble, which presents a summary of the significant issues raised by the public commenters and HUD's responses to these issues.

1. *Exemptions to Lien Position Requirements.* This final rule provides that the lien position requirements do not apply where: (1) the first and second mortgage were made at the same time (as usually occurs to accommodate a 20 percent downpayment on a conventional purchase mortgage); or (2) the second mortgage was provided by a state or local government agency in conjunction with a downpayment assistance program.

2. *Use of ''draw'' system not required.* The final rule no longer provides for the use of a draw system in the disbursement of direct property improvement loan proceeds in excess of $7,500.

3. *Effective date for two-party disbursement requirements.* This final rule clarifies that the two-party disbursement requirements are applicable only to dealer loans made on or after the effective date of this final rule.

4. *Title I Program liquidity requirements not revised.* This final rule does not adopt the proposed changes to the liquidity requirements for the Title I program.

5. *No new inspection requirements.* The final rule does not adopt the proposed revisions to the inspection requirements for dealer and direct property improvement loans.

6. *Revised Net Worth Requirements.* HUD has revised the proposed rule to more closely link the net worth adjustments to increases in inflation. Specifically, this final rule establishes an increased net worth requirement computed by adjusting the current requirements for inflation since 1991 using the Consumer Price Index published by the U.S. Bureau of Labor Statistics. The increased net worth requirements are based on Consumer Price Index adjustments commencing in 1991, since the Title I net worth requirements were last increased by HUD in that year.

7. *Exemption of dealers from branch office requirements.* The final rule no longer requires Title I dealers to maintain additional net worth for each branch office.

III. Discussion of the Public Comments Received on the March 30, 2000 Proposed Rule

The public comment period for the proposed rule closed on May 30, 2000. HUD received 502 public comments on the March 30, 2000 proposed rule. Several of the commenters submitted multiple comments. Numerous commenters submitted ''form letters,'' identical in substance to one another. The majority of comments were submitted by lenders participating in the Title I and II programs. Comments were also submitted by national and state organizations representing mortgage brokers, home improvement lenders, and mortgage bankers; state and local housing agencies; a state employees credit union; a state manufactured housing association; private individuals; and other commenters.

This section of the preamble presents a summary of the significant issues raised by the public commenters and HUD's responses to these comments.

A. Comments Regarding Two-Party Disbursements of Dealer Property Improvement Loan Proceeds

The March 30, 2000 rule proposed to amend the definition of ''dealer loan'' in § 201.2 to prohibit lenders from disbursing property improvement loan proceeds solely to a dealer. HUD proposed to require that a lender disburse the proceeds either solely to the borrower or jointly to the borrower and dealer or other parties to the transaction. The March 30, 2000 rule also proposed to make a conforming change to § 201.26, which describes the conditions for disbursement of property improvement loan proceeds.

Comment: Two-party disbursements will leave dealers vulnerable to unscrupulous borrowers. Several commenters were concerned that the proposed two-party disbursement requirement would leave contractors without guarantee of payment upon completion of their work. The commenters wrote that lenders would have no way to prevent an unscrupulous borrower from cashing the check and retaining the funds.

HUD Response. The proposed dual disbursement requirements will not deprive contractors of their right to payment. Contractors have various options to secure payment upon completion of their work. For example, the contractor might request a three-party closing or escrow whereby the contractor would assign the contract to the lender only upon the borrower's simultaneous endorsement of the lender's check to the contractor. Accordingly, HUD does not believe that a change to the proposed rule is necessary.

Comment: Rather than two-party disbursements, the final rule should require pre-disbursement inspections for dealer loans. One commenter suggested that, as an alternative to dual disbursements, HUD should require pre-disbursement inspections for dealer loans. According to the commenter, such inspections would assure that all work has been properly performed before payment of the dealer, while protecting the dealer against unscrupulous borrowers. The commenter suggested that the pre-disbursement inspection should include photographs. The commenter also recommended that, following the inspection, the homeowner should sign a completion certificate and release form authorizing payment of the dealer.s

HUD Response. HUD has not adopted the change suggested by the commenter. HUD agrees that inspections play an important role in ensuring the satisfactory completion of the property improvement work. However, HUD also believes that two-party disbursements are required to protect the financial integrity of the Title I program. The dual disbursement requirement will provide additional protections not afforded by inspections. The two-party disbursement requirement will ensure that loan proceeds are not released against the wishes of the borrower. Further, two-party disbursements will help to alert the lender to disputes between the borrower and the dealer.

The commenter emphasizes the role of the completion certificate signed by the homeowner upon the completion of the property improvement work. HUD agrees that such certificates are useful in preventing the misuse of loan funds. However, HUD has occasionally experienced problems regarding the improper signing of completion certificates prior to completion of the work. Accordingly, HUD does not believe that reliance on a completion certificate is a viable alternative to the two-part disbursement procedures established by this final rule.

Comment: Two-party disbursements may conflict with state law. Several commenters wrote that Title I dealer loans are retail sales installment transactions governed by state law. The commenters wrote that, under a retail sales installment contract, the dealer assigns all of its right, title and interest in the contract to the lender, and the lender pays the dealer for the assignment when the conditions of the contract have been satisfied. The commenters questioned HUD's legal authority to require that the seller of the retail installment contract (the dealer) be bypassed and the money be handed over to the borrower (who is not a party to the retail installment transaction).

HUD Response. HUD is not aware of any specific conflict between the proposed rule and any state or local law. However, HUD is cognizant that such conflicts may potentially arise in the future. Should such an issue arise, HUD will determine how best to resolve the conflict.

Comment: Two-party disbursements are unnecessary. Several commenters wrote that two-party disbursements are unnecessary. According to the commenters, other regulatory requirements ensure that all required work has been performed properly before payment of the dealer—such as the requirement that lenders not release funds to pay the dealer until the homeowner signs a completion certificate, the post-completion inspection requirement, and the proposed requirement for a telephone conversation with the borrower before the release of funds.

HUD Response. HUD does not agree that other regulatory requirements make the two-party disbursement procedures unnecessary. HUD believes that the two-party disbursement procedures will provide additional protections not afforded by these other requirements. For example, two-party disbursements will ensure that loan proceeds are not released against the borrower's wishes, and will help to promptly alert the lender to disagreements between the borrower and the dealer. Accordingly, HUD has decided to adopt the proposed dual disbursement requirements without change.

Comment: Support for two-party disbursements. Two commenters supported the proposed dual disbursement requirements. The commenters wrote that the proposal was reasonable and should prevent the disbursal of loan proceeds against the borrower's wishes. The commenters also wrote that two-party disbursements would help to ensure that property improvement work is completed satisfactorily, and that disagreements between the borrower and the dealer are brought to the lender's attention.

HUD Response. HUD agrees with the commenters. As noted, this rule makes

final the proposed dual disbursement requirements without change.

B. Comments Regarding Lien Position for Property Improvement Loans in Excess of $7,500

The March 30, 2000 rule proposed to amend § 201.24 (which describes security requirements) to require that a lien securing a property improvement loan in excess of $7,500 must occupy no less than a second lien position. The current regulation does not specify the position that such a lien must occupy, other than to state that the Title I property improvement loan must have priority over any lien securing an uninsured loan made at the same time.

Comment: Proposed lien position requirement will prevent many homeowners from participating in the Title I program. Several commenters wrote that the proposed lien position requirement would prevent homeowners who already have home equity loans, lines of credit, or received downpayment assistance, from participating in the Title I program. The commenters wrote that many home loans originated today are made in the form of a first and second lien transaction, in order to secure lower private mortgage insurance costs. Also, many state and local government agencies use second mortgages (''soft seconds'') to secure loans under their downpayment assistance programs. According to one of the commenters, the lien requirements would also be unworkable when borrowers use city, county, or state bond loan programs, which often prevent the consolidation of additional borrowing with the initial loan received under the bond program.

HUD Response. HUD agrees that the proposed lien position requirements may interfere with the ability of certain homeowners to obtain Title I financing. Accordingly, HUD has revised the proposed rule to accommodate the concerns raised by the commenters. This final rule provides that the lien position requirements do not apply where: (1) The first and second mortgage were made at the same time (as usually occurs to accommodate a 20 percent downpayment on a conventional purchase mortgage); or (2) the second mortgage was provided by a state or local government agency in conjunction with a downpayment assistance program.

Comment: Rather than prohibiting Title I loans from holding a third lien position, the final rule should require that a Title I loan take precedence over other liens issued at the same time. Several of the commenters recommended an alternative to the proposed lien position requirements. Specifically, these commenters recommended that rather than prohibiting Title I loans from holding a third lien position, HUD should require that a Title I loan take precedence over other liens issued at the same time. The commenters wrote that the final rule should prohibit a lender from processing a Title I application on a property for which the same lender has made a conventional subordinate-lien loan within the last 60 days. One of the commenters suggested a 90-day period, rather than the 60-days recommended by the other commenters. Another commenter suggested that the prohibition should apply whether the uninsured loan was made by the same lender or a different lender.

HUD Response. HUD agrees that the flexibility requested by the commenters is necessary to accommodate certain types of frequently used real estate financing. As noted above, HUD has revised the proposed rule to provide that the lien position requirement does not apply where the first and second mortgage were made at the same time.

Comment: Proposed lien position requirement will force many Title I lenders out of business. Two commenters wrote that many Title I loans occupy a third lien position. Therefore, the proposed requirements would prevent lenders from offering Title I loans, and drive the lenders out of business.

HUD Response. The requirement is necessary to assure the financial integrity and continuing viability of the program. As discussed above, HUD has revised the lien position requirements to accommodate certain types of real estate financing. HUD believes that the revised requirements strike the appropriate balance between the need for flexibility, and ensuring that the program operates in a sound fiscal manner.

C. Comments Regarding Disbursement of Direct Property Improvement Loan Proceeds in Excess of $7,500

The March 30, 2000 rule proposed to amend § 201.26 (which describes the conditions for loan disbursement) to modify the disbursement procedures for direct property improvement loans in excess of $7,500. HUD proposed to require that such disbursements be made using a ''draw'' system, similar to that used in construction lending. Lenders would have been required to deposit all of the loan proceeds in an interest bearing escrow account until they are disbursed. The draws would have been made in accordance with criteria established by the Secretary. The loan proceeds would have been disbursed in three draws—an initial disbursement of 40 percent of the loan proceeds, a subsequent 40 percent disbursement, and a final 20 percent disbursement.

Comment: Objections to proposed draw system. Several commenters wrote in opposition to the proposed draw system. The objections raised by the commenters varied, but all agreed that the final rule should not require the use of draw disbursement procedures. For example, several commenters wrote that the proposed draw system would be costly and difficult to administer for those Title I loans used to conduct simple home improvements that are completed in a few days or weeks (such as the replacement of siding or roofing, the installation of new windows, or the insulation of the home). Other commenters wrote that the maximum $25,000 Title I loan is a relatively small loan by banking industry standards. These commenters were concerned that the imposition of the additional draw requirements would make these small loans even less attractive to lenders. One commenter wrote that the proposed draw system would create a significant risk of litigation for lenders and/or housing authorities acting as the lender's rehabilitation agent. Several commenters wrote that the use of draws is unnecessary because required inspections will suffice to address HUD's stated goal of preventing opportunities for the misuse of funds. One commenter questioned whether the proposed draws system might conflict with State requirements governing the use of draw disbursements in the construction industry.

HUD Response. Upon reconsideration, HUD has decided not to require the use of a draw disbursement system for direct property improvement loans in excess of $7,500. HUD agrees with the commenters that the use of such a system might present administrative difficulties for lenders and may hinder participation in the Title I Program. HUD has concluded that the implementation of a draw system requires further review, including whether less burdensome alternatives exist to protect against the misuse of funds. Should HUD decide at a later date to implement a draw disbursement system, it will do so through a proposed rule and provide the public with an additional opportunity to comment.

Comment: Suggested revisions or alternatives to proposed draw system. To address some of the concerns summarized above, several commenters suggested modifications or alternatives to the proposed draw system. For

example, some commenters wrote that draws should only apply to ''larger projects'' involving direct loans in excess of $15,000 (or some other specified amount). Other commenters advocated that HUD revise the proposed rule to provide lenders and borrowers with greater flexibility in determining the appropriateness of using a draw system, and in establishing the number of required draws. Two commenters wrote that, instead of multiple draws, the final rule should require an initial ''holdback'' of 10 percent of the loan amount. One commenter wrote that the issuance of three joint checks would achieve the same results as the proposed draw system, with far less costs to the homeowner.

HUD Response. As noted above, HUD has decided not to adopt the proposed draw system requirements at this final rule stage. HUD will consider the suggestions made by the commenters should it decide to implement a draw system for Title I loans at a future date.

Comment: Concerns about escrow account requirements. Several commenters expressed concerns about the escrow account requirements of the proposed draw system. For example, some commenters wrote that lenders would most likely pass the costs of establishing the interest-bearing escrow account to borrowers.

One commenter suggested that, rather than requiring the establishment of an escrow account, the final rule should permit the lender to charge interest at the note rate on any fees included in the loan amount and on those loan proceeds actually disbursed to the borrower, beginning with the initial draw.

HUD Response. As discussed above, this final rule does not adopt the draw disbursement requirements of the March 30, 2000 proposed rule. HUD will take the concerns expressed by the commenters into consideration should it decide, at a later time, to implement a draw system for the Title I Program.

D. Comments Regarding Telephone Interviews for Dealer Property Improvement Loan Disbursements

The March 30, 2000 rule proposed to amend § 201.26 to require that the lender must conduct a telephone interview with the borrower before the disbursement of dealer property improvement loan proceeds. The lender, at a minimum, would be required to obtain an oral affirmation from the borrower to release funds to the dealer.

Comment: Support for telephone interview requirement. Several public commenters wrote in support of the proposed telephone interview requirement. Many of these commenters noted that this practice is already followed by most reputable lenders in the Title I dealer loan program.

HUD Response. HUD agrees that the telephone interview requirements will help to ensure the continued effectiveness of the Title I program. This final rule adopts the proposed requirement without change.

Comment: Telephone interview requirement is duplicative and will slow down the dealer loan process. Two commenters opposed the proposed telephone interview requirement as unnecessary. According to the commenters, the proposed dual disbursement requirement, and the current certificate of completion requirement, will ensure that all work is properly performed before the disbursement of the dealer loan proceeds. The commenters also wrote that, in today's increasingly automated lending environment, the proposed requirement would be costly to administer and unnecessarily delay dealer loan transactions.

HUD Response. Telephone interviews are a well established industry procedure already practiced by the majority of Title I lenders. Further, the majority of commenters submitting comments on this proposal recognized the effectiveness of telephone interviews and supported the requirement. Accordingly, requiring the use of telephone interviews will not pose an unfamiliar or unduly burdensome administrative requirement.

E. Comments Regarding Liquidity Requirements

The March 30, 2000 rule proposed to amend the regulations at 24 CFR parts 201 and 202 to make the liquidity requirements applicable to the Title I and Title II programs consistent with one another. The proposed liquidity requirement would have applied to Title I supervised lenders (§ 202.6), Title I unsupervised lenders (§ 202.7), Title I loan correspondent lenders (§ 202.8), and Title I dealers (§ 201.27). Under the proposed rule, these Title I participants would have been required to have liquid assets consisting of cash (or its equivalent acceptable to the Secretary) in the amount of 20 percent of their net worth, up to a maximum liquidity requirement of $100,000. For purposes of the proposed rule, HUD would not have considered lines of credit to be liquid assets, nor loans or mortgages held for resale by the mortgagee.

Comment: Concerns regarding the proposed liquidity requirements. Two commenters supported the proposed liquidity requirements, writing that many Title I lenders and loan correspondents are also approved as Title II mortgagees and therefore already satisfy the proposed liquidity increases. However, other commenters wrote that the proposed liquidity requirements would impose an economic hardship on Title I participants. For example, several commenters wrote that most Title I dealers are two or three person operations whose business assets are limited and, therefore, would find it very difficult to meet the proposed liquidity requirements.

Several commenters wrote that HUD, by proposing to conform the Title and Title II liquidity requirements, but disregarding other program differences, would place Title I lenders at a marketplace disadvantage. The commenters wrote that Title II mortgagees are not subject to the Title I ''bricks and mortar'' and minimum staffing requirements for HUD branch office approval. The commenters recommended that, should HUD decide to finalize the proposed liquidity requirements, it should also conform these other Title I and Title II program requirements.

One commenter wrote that the liquidity requirements would not necessarily assure dealer integrity or reliability. Some commenters noted that the misuse of restricted funds is not a significant concern for Title I loan correspondents, since they do not service HUD loans and never hold insurance or escrow monies. These commenters suggested that the required liquidity for loan correspondents be capped at 20 percent of the minimum net worth.

HUD Response. Upon reconsideration, HUD has decided not to proceed with the proposed changes to the Title I liquidity requirements. HUD agrees with the commenters that the proposed liquidity increases might pose an economic hardship for some Title I lenders, correspondents and dealers. Accordingly, HUD has decided to defer any changes to the Title I liquidity requirements in order to further consider the impacts of such increases. Should HUD decide to increase the liquidity requirements at a future date, it will implement these changes through proposed rulemaking and provide the public with an additional opportunity to comment.

F. Comments Regarding the Reporting of Loans for Insurance

The March 30, 2000 rule proposed to amend § 201.30 to clarify that required loan reports must be submitted on the form prescribed by the Secretary, and

must contain the data prescribed by HUD.

Comment: Support for proposed reporting requirements. Several commenters supported this proposed requirement. The commenters wrote that the proposal would allow HUD to better monitor and track participant performance.

HUD Response. HUD agrees that the reporting requirements will facilitate its review of Title I participant performance.

Comment: The reporting requirements should be ''phased-in''. One commenter, while supporting the proposed reporting requirements, noted that ''requirements of this sort often involve the modification of automated systems, which are sometimes maintained by others.'' The commenter suggested that the new reporting requirements be ''phased-in,'' in order to provide participants adequate time to make needed adjustments.

HUD Response. HUD agrees that lenders may require time to modify existing procedures in order to comply with any new HUD reporting requirements. HUD notes that the final rule does not establish new or revised reporting requirements at this time. Rather, the language of the proposed and final rules clarifies that the required reports must be submitted in the format, and contain the data, prescribed by HUD. In evaluating lender compliance with any new reporting requirements, HUD will take into consideration the need of lenders to update their current systems and procedures.

G. Comments Regarding Increased Insurance Charge for Property Improvement and Manufactured Home Loans

The March 30, 2000 rule proposed to revise § 201.31(a) to increase the insurance charge for Title I property improvement and manufactured home loan insurance. Currently, Title I property improvement lenders are required to pay an insurance charge of 0.50 percent of the loan amount, multiplied by the number of years of the loan term. HUD proposed to increase the applicable percentage to 1.00 percent of the loan amount. HUD also proposed to amend § 201.31(b) to conform the procedures governing the payment of the insurance charge for manufactured home loans with the insurance charge payment procedures for property improvement loans. The current regulations establish an accelerated payment schedule for manufactured home loans with a maturity in excess of 25 months. Under the proposed rule, the payment schedule for manufactured homes loans with a maturity in excess of 25 months would be identical to that applicable to comparable property improvement loans.

1. General Comments Regarding the Increased Insurance Charge

Comment: Support for increased insurance charge. Several commenters supported the proposed increase. The commenters wrote that the proposal was necessary for the Title I program to be self-supporting.

HUD Response. HUD agrees with these commenters. The final rule adopts the proposed revisions without change.

Comment: Cost of increased insurance charge will be passed on to the borrower. Several commenters wrote that the costs of the increased insurance charge would be passed on to the borrower. Some of the commenters wrote that lenders sometimes absorb the cost of the insurance premium as a ''goodwill'' gesture. However, the commenters wrote that if HUD proceeds with the proposed increase, lenders may be forced to pass the cost to the borrower. According to the commenters, this will mean charging substantial up-front fees that most borrowers cannot afford.

HUD Response. HUD does not agree with these commenters. Market costs will determine whether the increased insurance charge will be passed on to borrowers, or absorbed by lenders as a necessary expense of maintaining their competitiveness in the market.

Comment: The proposed increase is excessive. Two commenters, although supporting an increase to the insurance charge, wrote that the proposed increase was excessive. One of the commenters suggested that HUD should reduce the proposed increase to 0.75 percent of the loan amount. The second commenter wrote that an 0.88 percent insurance charge would be sufficient.

HUD Response. HUD has not adopted the changes requested by these commenters. The increase to the insurance charge is based upon the conclusions reached by a comprehensive HUD analysis of the Title I program. This analysis evaluated various premium models, and concluded that the increase is necessary to cover the costs of insurance claims paid by HUD under the program. In addition, to simplify the product for the industry, both the Title I property improvement and manufactured home programs will use the same method of premium collection.

Comment: There is no basis for modifying the front-loaded collection system for manufactured home loans. One commenter wrote that ''[i]n spite of a declining loan volume beginning in the early 1990's, the manufactured home loan program has shown positive cash flow in each year since 1989, and has generated a surplus of $120 million over this eleven year period'' (emphasis in original). Therefore, according to the commenter, there is no basis for changing the total loan insurance charge or the ''front-loaded'' collection system for manufactured home loans.

HUD Response. HUD has not revised the proposed rule in response to this comment. The Title I Manufactured Home Program has not generated a positive cash flow in recent years.

2. Suggested Revisions to Increased Insurance Charge

Comment: Insurance charge should be based upon a performance based standard. Several commenters suggested that HUD develop performance standards for use in establishing the insurance charge for each lender. The commenters wrote that participating financial institutions should not be forced to bear the costs of program losses attributable to a minority of poor-performing lenders. According to the commenters, the use of a performance-based insurance charge would reward lenders with strong underwriting standards, while maintaining the financial stability of the program.

HUD Response. HUD has not adopted the suggestions made by these commenters. Title I property improvement loans fill an important role otherwise unserved by either public or private lending products. Accordingly, HUD believes it is appropriate to use a single premium rate applicable to all lenders. A performance-based premium standard might make Title I loans unaffordable in certain communities.

Comment: Title I loans that are financed by municipal housing bonds should be exempt from the proposed insurance charge increase. Two commenters were concerned that the proposed increase to the insurance charge might jeopardize the ability of state and local housing agencies to provide low-interest Title I loans to low-income households. The commenters wrote that bond-financed Title I loans have a lower rate of default than other Title I loans and provide lower interest rates on home improvement loans for low-income households. Accordingly, the commenters recommended that HUD exempt bond-financed Title I loans from any increases to the insurance charge.

HUD Response. HUD has not adopted the change suggested by the

commenters. As noted, the premium increase is based on recent credit subsidy estimates used for budget purposes. HUD's credit subsidy analysis evaluated the performance of the entire Title I portfolio, and did not exclude Title I loans financed by municipal housing bonds. Accordingly, the conclusions reached by HUD regarding the need for an increased insurance charge are equally applicable to these types of Title I loans.

Comment: Increased insurance charge should only apply to loans made after the effective date of the final rule. One commenter, while supporting an increase to the insurance charge, wrote that the increase should only apply to loans made after the effective date of the final rule.

HUD Response. The increased insurance charge applies only to Title I loans made on or after the effective date of this final rule.

Comment: HUD should consider ''sunsetting'' the increased insurance charge. One commenter wrote that, if the increased insurance charge is necessary to cover past program losses, HUD should provide a ''sunset provision'' for the premium increase. Once the past losses have been recovered in a few years, the insurance charge would be reduced to its current level.

HUD Response. HUD has not adopted the change suggested by the commenter. The increase to the insurance charge is necessary not only to recoup past losses in the Title I program, but also to cover the projected costs of future insurance claims paid by HUD under the program.

Comment: Final rule should establish ''front loaded'' collection system for property improvement loans. One commenter wrote that a level annual premium penalizes those lenders who make good Title I loans and hold them in their portfolio for servicing. According to the commenter, many of these lenders do not pass the premium cost to borrowers, and must, therefore, pay the annual premium from the ever-declining interest payments they receive. ''Increasing the annual premium from 0.50 percent to 1.00 percent will exacerbate this problem* * *'' The commenter suggested that HUD adopt a ''front-loaded collection system similar to the one that has been successful for the manufactured home loan program.'' According to the commenter, such a system would conform to the recommendations made by HUD staff in 1995, and subsequently ''confirmed by Price Waterhouse in its 1997 study of the program, and reaffirmed by KPMG Peat Marwick in its 1998 front-end risk assessment on the program.''

HUD Response. HUD has not adopted the suggestion made by the commenter. The current premium structure was developed by HUD based on data provided from several sources, including various financial contractors. Based on this information, HUD has determined that the current structure meets the financial needs of FHA and participants in the Title I program. Moreover, the regulatory change suggested by the commenter could not appropriately be implemented at the final rule stage, but would require additional notice and opportunity for public comment.

H. Comments Regarding Inspection Requirements for Dealer and Direct Property Improvement Loans

The March 30, 2000 rule proposed to expand the current on-site inspection requirements for dealer and direct property improvement loans at § 201.40. Specifically, HUD proposed to require that on-site inspections be conducted for all dealer and direct property improvement loans (not just for loans where the principal obligation is $7,500 or more, or where the borrower fails to submit a completion certificate). In the case of dealer and direct property improvement loans of $7,500 or less, the lender would have been required to conduct two inspections—a pre-construction inspection and a post-construction inspection. For dealer and direct loans in excess of $7,500 the lender would also have been required to conduct a third inspection. Additionally, HUD proposed to require that photographs of the site be taken as part of all required inspections.

Comment: Concerns regarding proposed inspections. Several commenters expressed concern about the proposed inspection requirements. For example, various commenters wrote that the proposed increase in the number of required inspections would be administratively burdensome, costly and impracticable. The commenters wrote that it would serve no worthwhile purpose to require multiple inspections within the few days it takes to complete most Title I projects. Several commenters requested that HUD raise the current inspection fees, or otherwise provide additional funding to cover the costs of conducting the additional inspection. Other commenters objected to the time periods for conducting the proposed inspections. One of these commenters suggested extending the 60-day deadline for completing the required inspections to 90-days. Two commenters recommended shortening the existing period for completion of direct loan improvements from six months to 90 days (with a one-time 90-day extension).

HUD Response. This final rule does not adopt the proposed changes to the Title I inspection requirements. HUD has decided to defer any changes to the inspection procedures to allow for further review of the potential impacts of such revisions. Should HUD decide to revise the Title I inspection requirements at a future date, it will implement these changes through proposed rulemaking and provide the public with an additional opportunity to comment.

I. Comments Regarding Net Worth Requirements for Title I and Title II Programs

The March 30, 2000 rule proposed to increase the net worth requirements for both Title I and Title II loan correspondents. Specifically, HUD proposed to amend § 202.8 to raise the minimum net worth requirement for Title II loan correspondent mortgagees and Title I loan correspondent lenders from $50,000 to $75,000. HUD also proposed to amend § 201.27 to raise the current minimum net worth requirements for Title I property improvement loan dealers and manufactured home dealers from $25,000 and $50,000, respectively, to $75,000.

1. Support for Proposed Net Worth Requirements

Comment: Support for increased net worth requirements.

A minority of commenters supported the proposed net worth requirements. The commenters wrote that fraudulently originated loans and loans to unqualified borrowers are more likely to occur if the lender is thinly capitalized and desperate to close and sell more loans to stay solvent. Accordingly, the higher worth requirements should ensure greater integrity and accountability.

Response. HUD agrees that increased net worth requirements are necessary to help ensure greater accountability in the Title I and Title II programs.

Comment: Net worth requirements should be increased further. Three commenters wrote that the proposed net worth increases are not sufficient. The commenters suggested that the net worth requirements should be increased even further—to $100,000 or some other amount.

HUD Response. As discussed in greater detail below, HUD has revised the proposed rule to more closely link the net worth adjustments to increases

in inflation. HUD believes that increasing the net worth requirements to reflect inflationary pressures is equitable and will not pose an undue financial burden on program participants.

2. Objections to Proposed Net Worth Requirements

Comment: Increased net worth requirements will eliminate competition and make borrowers vulnerable to abusive lending practices. Many commenters wrote that lenders would find it extremely costly to maintain the required cash reserves. The commenters wrote that the proposed net worth requirements would drive many of these lenders out of business, or force them to cease offering Title I loans. Accordingly, the proposed net worth requirements would decrease competition and allow mortgage lenders to charge higher fees and offer services that are inferior and more profitable. The commenters wrote that the increased net worth requirements would ultimately result in borrowers either being directed to sub-prime products at much higher interest rates or being required to pay the higher bank prices.

Many of these commenters questioned why HUD would propose to increase the net worth requirements at a time when it has specifically requested the National Association of Mortgage Brokers (NAMB) to assist in expanding the use of FHA programs by mortgage brokers. According to the commenters, the increased net worth requirements would have the opposite effect by preventing many lenders from participating in the Title I programs.

HUD Response. HUD does not agree that the increased net worth requirements will decrease market competition and hurt consumers. HUD last increased the Title I net worth requirements in 1991. Fiscal Year 1999 set an all time high for new approved lenders with Fiscal Year 2000 being the second highest. The rate of new lender approvals has continued at these historic high levels through the first half of Fiscal Year 2001. Moreover, 82 percent of new lenders approved thus far in Fiscal Year 2001 have been loan correspondents. If anything, market competition in the Title I program is increasing and not decreasing.

Comment: Increased net worth requirements will limit availability of Title I loans to underserved communities. Many commenters wrote that small lenders are often more willing to provide necessary services to minority and rural communities. According to these commenters, these lenders will often provide educational seminars in English, Spanish, and a variety of other languages, or visit families to explain home loan financing and take a loan application. The increased net worth requirements would prevent these lenders from participating in the Title I programs, and, therefore, limit the availability of Title I loans to underserved minority and rural communities.

HUD Response. As discussed above, HUD does not agree that the new net worth requirements will decrease the number of participating lenders. Rather, HUD believes that the financial reforms implemented by this final rule will make participation in the Title I program an even more attractive option for lenders. Moreover, the final rule will strengthen the financial soundness of participating lenders. Accordingly, rather than restrict the availability of Title I loans, the final rule will make the program available to many new borrowers—including those located in traditionally underserved rural and minority communities.

Comment: Increased net worth requirements unfairly penalize loan correspondents, who are not responsible for servicing Title I loans. Many commenters wrote that the majority of loan correspondents are small businesses, who immediately deliver FHA loan packages to a lender (sponsor). The servicing lenders are the entities in complete control of the restricted funds for all customer insurance premiums and escrows. The commenters objected to the establishment of increased net worth requirements for loan correspondents, since the correspondents do not underwrite, approve, fund and/or service FHA loans. The commenters wrote that the increased net worth requirements would force loan correspondents to tie up excessive business capital in cash reserves, that might be more productively used to run the company's operations. Several of the commenters suggested that HUD make the sponsoring lender accountable for the actions of the correspondent. The commenters wrote that such a practice would conform to the existing procedures used by Fannie Mae, Freddie Mac, and the Department of Veterans Affairs.

HUD Response. HUD has not revised the proposed rule in response to these public comments. While loan correspondents are not authorized to service FHA insured loans, they do collect some up-front fees and/or premiums from borrowers as part of the origination process. Loan correspondents are also required to fund the Title I loans they originate. With respect to the commenters suggesting that HUD make sponsors responsible for the actions of loan correspondents in lieu of increasing the net worth requirement, HUD notes that the FHA lender approval regulations already provide for such accountability (see 24 CFR 202.8(b)(7)).

Comment: There is no correlation between net worth and default ratios. Many commenters wrote that the net worth of lenders has no bearing on default ratios. The commenters wrote that some of the most well-capitalized lenders have been suspended from FHA participation due to high default rates and fraud.

HUD Response. HUD has not revised the proposed rule in response to these comments. While it is true that some well-capitalized lenders have been suspended from FHA participation because of high claim rates or fraud, it is also true that some under-capitalized lenders have also been subjected to similar sanctions. In HUD's experience, there is less stress on well capitalized lenders to misuse restricted funds such as insurance premiums or escrows for operating expenses. The net worth increases will help to ensure that only well-capitalized and financially strong lenders are eligible to participate in the Title I and Title II programs.

Comment: Increased net worth requirements are unnecessary; existing requirements are sufficient to protect against misuse of FHA funds. Several commenters wrote that existing HUD regulations adequately protect the public and FHA against fraud and the misuse of funds. The commenters recommended that HUD should educate lenders on existing program procedures and enforce compliance with these requirements, rather than increasing the net worth requirements. One of the commenters wrote that ''HUD now has the tools, like the Credit Watch program, to accurately assess the performance of any lender.'' The commenter questioned the need to raise the net worth levels, given that objective measures of real performance are now in place.

HUD Response. HUD agrees that lender education and compliance enforcement are important tools in protecting against the misuse of FHA loan funds. However, enforcement actions occur only after the violation of FHA requirements. Further, the performance measures mentioned by the commenters (such as the Credit Watch Program) come into play after HUD has assumed the risk of insuring the loans originated by participating lenders. Therefore, HUD believes that preventative risk management measures are necessary to help reduce the risk to

FHA insurance funds. HUD's goal in issuing this final rule is to help to reduce the number of necessary FHA enforcement actions, as well as the incidence of poor performance ratings under Credit Watch and other similar measurement systems.

3. Comments Regarding HUD's Justification for Proposed Net Worth Increases

Comment: Loss rates do not justify proposed net worth requirements. Several commenters questioned HUD's explanation that the proposed net worth increase is necessary due to increases in the loss rates for the Title I and Title II programs (see 65 FR 17122, middle column). The commenters noted that, based on the figures provided in the preamble, the average loss has more than doubled for the Title I program ($13,783 to date versus $6,318 in FY 1991), while the increase for the Title II program has been just under one-third ($31,800 today versus $24,140 for FY 1991). According to the commenters, the proposed net worth increase would be greater than the increase in losses for the Title II program, but insufficient to cover Title I program losses.

As one of the commenters wrote:

> [B]ased on the proposed increase, a Title I correspondent would go from being able to indemnify 7.9 average losses in 1991 to being able to indemnify 5.4 average losses today. At the same time, a Title II correspondent would go from a capability of indemnifying 2.1 average losses in 1991 to 2.4 today. Thus, while the ability to indemnify would increase slightly for Title II correspondents under the Proposal (12%), the ability to indemnify for Title I correspondents would decrease substantially (46%). The Proposal would increase net worth requirements to much for Title II and too little for Title I, based on the trends in average losses for the two programs. * * * We see no reason why Title II participants should cross-subsidize the Title I program.

HUD Response. HUD does not agree with the commenter. HUD's goal in establishing minimum net worth requirements is not to ensure that lenders will have the capability to indemnify HUD against losses resulting from improper or fraudulent loans. Rather, the objective is to ensure that lenders have the financial capacity to operate their companies in a sound and professional manner, thereby reducing the risk to FHA insurance funds. The data provided in the proposed rule was designed to highlight the fact that HUD's losses per claim have increased significantly, while the net worth requirement has remained the same. Further, there can be no cross-subsidization of the two programs since FHA insurance under the Title I and Title II programs is provided through separate appropriations.

Comment: Inflation does not justify proposed net worth increases. Several commenters disagreed with HUD's explanation that the net worth requirements need adjustment due to inflation (see 65 FR 17123, middle column). The commenters wrote that the past seven years have seen uncommonly low levels of inflation. According to the commenters, inflation has not approached the level of 50% over the past seven years since the last increase in net worth requirements. Accordingly, the commenters believe that the proposed increase ''vastly overreaches the degree of increase in net worth that inflation alone can justify.''

HUD Response. HUD agrees that the increases to the net worth requirements should be more closely linked to actual increases in inflation. Accordingly, this final rule establishes an increased net worth requirement computed by adjusting the current requirements for inflation from 1991 to 2000 using the Consumer Price Index published by the U.S. Bureau of Labor Statistics. The increased net worth requirements are based on Consumer Price Index adjustments commencing in 1991, since the Title I net worth requirements were last increased by HUD in that year. The numbers are rounded to the nearest $1,000. Specifically, the final rule raises the net worth requirements for Title II loan correspondent mortgagees and Title I loan correspondent lenders from $50,000 to $63,000. The final rule also amends § 201.27 to raise the current minimum net worth requirements for Title I property improvement loan dealers and manufactured home dealers from $25,000 and $50,000 to $32,000 and $63,000, respectively.

4. Suggested Revisions to Proposed Net Worth Requirements

Comment: The final rule should provide lenders with additional time to meet the net worth requirements. Several commenters wrote that six months would not be sufficient time for lenders to meet the new net worth requirements. Two of the commenters suggested that one year would be a more equitable time period.

HUD Response. HUD has not adopted the suggestion made by the commenter. This rule continues to grant lenders six months from the effective date of the final rule (seven months following the date of publication) to comply with the new requirements. HUD believes the final rule provides sufficient time for lenders to take any actions necessary to comply with the increased net worth requirements.

Comment: Bonding requirement is a more appropriate alternative to increasing the net worth requirements. Several commenters suggested that, in lieu of increasing the net worth, HUD should impose a surety bond requirement. This might involve the bonding of the loan broker/correspondent, as well as the individual bonding of originators employed by the correspondent. According to the commenters, a surety bond requirement would be less costly for lenders to meet, while securing financial responsibility and providing a recourse for all parties involved. The commenters wrote that a surety bond requirement would also benefit HUD by affording relief from the burden of reviewing annual audited financial statements.

HUD Response. HUD has not adopted the recommendations made by the commenter. In 1999, HUD conducted extensive research into the possibility of accepting surety bonds and concluded that it would increase the risk to HUD and impair its ability to monitor and sanction Title I lenders. Although underwriting standards may vary among bonding companies, most financial guaranty bonds provide for full recourse to the principals of a company in the form of a personal guarantee. Most small Title I lenders would not be able (or willing) to provide such a guarantee in order to obtain a surety bond.

Comment: Increased net worth requirements should not apply to currently approved loan correspondents. Two commenters suggested that HUD exempt currently approved loan correspondents from the increased net worth requirements.

HUD Response. HUD has not revised the proposed rule in response to these comments. In the interests of fairness, the final rule establishes a uniform net worth requirement applicable to all loan correspondents, regardless of when they were approved by FHA. The commenter's suggestion would put newly approved Title I correspondents at a distinct market disadvantage.

Comment: Increased net worth requirements should apply to loan correspondents, but not to Title I dealers. Several commenters supported increased net worth requirements for loan correspondents. According to the commenters, correspondents should be required to have sufficient net worth to indemnify HUD for more than a few loans. The commenters, however, unanimously advocated that loan dealers be exempted from the net worth increases. The commenters wrote that most Title I loan dealers are small businesses who would be unable to meet the proposed increases. Further,

the commenters wrote that loan dealers do not underwrite Title I loans, but merely originate the loans.

HUD Response. As noted, HUD has revised the proposed rule to more closely link the net worth adjustments to increases in inflation. HUD believes that increasing the net worth requirements to reflect inflationary pressures is equitable and will not pose an undue financial burden on program participants. In addition, as stated elsewhere in this preamble, HUD has exempted Title I dealers from the new branch office requirements.

J. Comments Regarding Performance Based Standards

The preamble to the March 30, 2000 proposed rule explained that HUD is planning to develop performance-based standards for determining the continued eligibility of lenders, correspondents and dealers in the Title I program. These would identify objective criteria for loan performance and would ensure management quality. The preamble advised that while HUD was still developing data collection and measurement systems for this purpose and was not proposing any requirements in this area under this proposed rule, it was interested in the public's views on using this tool. (See 65 FR 17122, middle and third columns.)

Comment: Support for performance based standards. Several commenters supported the development of performance based standards for the Title I program. The commenters wrote that such standards have been used effectively in a number of mortgage purchase and participation programs, and can be used effectively to assure loan quality and compliance with Title I program requirements. The commenters also urged that any such standards be objective and equitable. The commenters offered to work with HUD in the development of the performance based standards.

HUD Response. At this time, HUD has decided not to implement performance based standards for the Title I program. HUD continues to believe that such standards can be an effective risk management tool, and may develop performance standards in the future. HUD thanks the commenters for their suggestions, and appreciates their offer to work with HUD on the development of such standards. HUD will take the comments under consideration should it determine to develop performance based standards for use in the Title I program.

K. Comments Regarding Small Business Impacts

Two commenters questioned HUD's preamble certification that the proposed rule would not have a significant economic impact on a substantial number of small entities (see 65 FR 17123, first column).

Comment: The proposed rule inadequately addressed small business concerns. Two commenters disagreed with the preamble statement indicating that ''[t]he majority of financial institutions participating in the Title I program are large depository institutions.'' One of the commenters wrote that its ''experience is quite the opposite.'' The second commenter noted that the regulations defining what constitutes a small business are issued by the Small Business Administration (SBA). According to the commenter, under the SBA regulations at 13 CFR 121.201, many of the lending institutions and loan dealers participating in the Title I program are small business entities.

Two commenters wrote that the proposed rule inadequately addressed the adverse economic impacts of the proposed rule on small entities. According to the commenters, if the proposed net worth and liquidity requirements were to be implemented, many property improvement and manufactured home dealers could not afford to participate in the Title I program. The commenters reminded HUD of its obligation, under the Regulatory Flexibility Act (5 U.S.C. 605(b)) to consider alternatives that would accomplish HUD's goals without severe economic losses to small businesses.

HUD Response. HUD does not agree with these commenters. Small business concerns were carefully considered by HUD in the development of the proposed and final rules. Where this final rule imposes an economic burden, HUD has attempted to minimize the costs to small lenders and other small entities participating in the Title I and Title II programs. The commenters are also incorrect in writing that HUD has not considered less costly alternatives to the regulatory changes. The preamble to the proposed rule specifically invited comments from the public (including small businesses) on possible less burdensome alternatives to the proposed regulatory amendments (see 65 FR 17123, third column). HUD received over 500 public comments on the March 30, 2000 proposed rule, many of them suggesting changes to the proposed regulatory language. HUD carefully reviewed each of these comments and, where it determined appropriate, revised the proposed rule to adopt the recommended changes.

In response to public comment, HUD has decided not to adopt several provisions of the proposed rule that had the potential to impose economic hardship on small participants in the Title I Program. As discussed above in this preamble, the final rule no longer increases the liquidity requirements, requires the use of a draw system for disbursement of direct loans in excess of $7,500, or establishes new inspection requirements. In addition, Title I dealers will not be required to maintain additional net worth for each branch office. The final rule also ''phases-in'' the increases to the net worth requirements. Also in response to public comment, HUD has revised the proposed rule to more closely link the net worth adjustments to increases in inflation.

As noted elsewhere in this preamble, HUD also disagrees with the commenters that the net worth increases will decrease the number of participating lenders. HUD last increased the net worth requirements for the Title I program in 1991. Lender participation in the Title I program has significantly increased each year since 1991. In Fiscal Years 1999 and 2000, FHA approved a record number of new lenders for participation in the program. In addition, an analysis of a sampling of four years worth of the annual recertification audits submitted by loan correspondents in the Title I program indicates that the impact of the increase of the net worth is minimal as 74% of the lenders already meet the new standard.

For the above reasons, HUD has determined that the final rule will not have a significant economic impact on a substantial number of small entities, in accordance with the requirements of the Regulatory Flexibility Act.

IV. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in § 201.26(a)(7) (the new telephone interview requirement for dealer property loan disbursements) has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2502–0328. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, Regulatory Planning and Review. OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). That Finding remains applicable to this final rule, and is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Regulatory Flexibility Act

The Secretary has reviewed this final rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule would not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows.

The final rule makes several amendments to HUD's Title I program regulations. The final rule also increases the net worth requirements applicable to both the Title I and Title II Single Family Mortgage Insurance programs. The changes are designed to enhance program controls and strengthen the financial viability of the programs. This final rule follows publication of a March 30, 2000 proposed rule, and takes into consideration the public comments received on the proposed rule. The preamble to the March 30, 2000 proposed rule specifically solicited comment from the public (including small businesses) on possible less burdensome alternatives to the proposed regulatory amendments (see 65 FR 17123, third column).

Many of the new requirements (such as two-party disbursements for dealer loan proceeds, and ensuring at least a second lien position for certain loans) will pose minimal, or no, economic costs. Where the final rule imposes an economic burden (such as the increased net worth), HUD has attempted to minimize the costs to small lenders and other small entities participating in the Title I and Title II programs. In addition, HUD has adopted several changes suggested by the commenters to alleviate economic burden on small entities.

Among other provisions designed to address small business concerns, the final rule no longer increases the liquidity requirements for participation in the Title I Program. In addition, Title I dealers will not be required to maintain additional net worth for each branch office. The final rule also ''phases-in'' the increases to the net worth. HUD has also revised the proposed rule to more closely link the net worth adjustments to increases in inflation. HUD has revised the proposed lien position requirements to accommodate certain types of frequently used real estate financing. In addition, the final rule no longer requires the use of a draw system for disbursement of direct loan proceeds in excess of $7,500, nor mandates new inspection procedures for Title I loans.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This final rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers applicable to the 24 CFR parts 201 and 202 are:

14.110 Manufactured Home Loan Insurance—Financing Purchase of Manufactured Homes as Principal Residences of Borrowers;

14.142 Property Improvement Loan Insurance for Improving All Existing Structures and Building of New Nonresidential Structures; and

14.162 Mortgage Insurance—Combination and Manufactured Home Lot Loans.

List of Subjects

24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 202

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 201 and 201 to read as follows:

PART 201—TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

1. The authority citation for 24 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 1703 and 3535(d).

2. In § 201.2, revise the definition of ''Dealer loan'' to read as follows:

§ 201.2 Definitions.

* * * * *

Dealer loan means a loan where a dealer, having a direct or indirect financial interest in the transaction between the borrower and the lender, assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender. In the case of a property improvement loan, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction. In the case of a manufactured home loan, the lender may disburse the loan proceeds solely to the dealer or the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

* * * * *

3. Revise § 201.24(a) to read as follows:

§ 201.24 Security requirements.

(a) *Property improvement loans*—(1) *Property improvement loans in excess of $7,500.* (i) Any property improvement loan in excess of $7,500 shall be secured by a recorded lien on the improved property. The lien shall be evidenced by a mortgage or deed of trust, executed by the borrower and all other owners in fee simple.

(ii) If the borrower is a lessee, the borrower and all owners in fee simple must execute the mortgage or deed of trust. If the borrower is purchasing the property under a land installment contract, the borrower, all owners in fee simple, and all intervening contract sellers must execute the mortgage or deed of trust.

(iii) The lien need not be a first lien on the property; however, the lien securing the Title I loan must hold no less than the second lien position. This requirement shall not apply where the first and second mortgages were made at the same time or the second mortgage was provided by a state or local government agency in conjunction with a downpayment assistance program.

(2) *Property improvement loans of $7,500 or less.* Any property improvement loan for $7,500 or less (other than a manufactured home improvement loan) shall be similarly secured if, including any such additional loans, the total amount of all Title I loans on the improved property is more than $7,500.

(3) *Manufactured home improvement loans.* Manufactured home improvement loans need not be secured.

* * * * *

4. Amend § 201.26 as follows:

a. Redesignate paragraphs (a)(6) and (a)(7) as paragraphs (a)(8) and (a)(9), respectively; and

b. Add new paragraphs (a)(6) and (a)(7).

§ 201.26 Conditions for loan disbursement.

(a) * * *

(6) In the case of a dealer loan made on or after December 7, 2001, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

(7) In the case of a dealer loan, the lender must conduct a telephone interview with the borrower before the disbursement of the loan proceeds. The lender, at minimum, must obtain an oral affirmation from the borrower to release funds to the dealer. The lender shall document the borrower's oral affirmation.

* * * * *

5. Revise § 201.27(a)(1) to read as follows:

§ 201.27 Requirements for dealer loans.

(a) *Dealer approval and supervision.* (1) The lender shall approve only those dealers which, on the basis of experience and information, the lender considers to be reliable, financially responsible, and qualified to satisfactorily perform their contractual obligations to borrowers and to comply with the requirements of this part. However, in no case shall the lender approve a dealer that is unable to meet the following minimum qualifications:

(i) *Net worth.* All property improvement and manufactured home dealers shall have and maintain a net worth of not less than $32,000 and $63,000, respectively. The required net worth must be maintained in assets acceptable to the Secretary.

(ii) *Business experience.* All property improvement loan and manufactured home dealers must have demonstrated business experience as a property improvement contractor or supplier, or in manufactured home retail sales, as applicable.

* * * * *

6. Revise § 201.30(a) to read as follows:

§ 201.30 Reporting of loans for insurance.

(a) *Date of reports.* The lender shall transmit a loan report on each loan reported for insurance within 31 days from the date of the loan's origination or purchase from a dealer or another lender. The loan report must be submitted on the form prescribed by the Secretary, and must contain the data prescribed by HUD. Any loan refinanced under this part shall similarly be reported on the prescribed form within 31 days from the date of refinancing. When a loan insured under this part is transferred to another lender without recourse, guaranty, guarantee, or repurchase agreement, a report on the prescribed form shall be transmitted to the Secretary within 31 days from the date of the transfer. No transfer of loan report is required when a loan insured under this part is transferred with recourse or under a guaranty, guarantee, or repurchase agreement.

* * * * *

7. Amend § 201.31 as follows:

a. Revise the first sentence of paragraph (a); and

b. Revise paragraph (b)(2).

§ 201.31 Insurance charge.

(a) *Insurance charge.* For each eligible property improvement loan and manufactured home loan reported and acknowledged for insurance, the lender shall pay to the Secretary an insurance charge equal to 1.00 percent of the loan amount, multiplied by the number of years of the loan term. * * *

* * * * *

(b) * * *

(2)(i) For any loan having a maturity in excess of 25 months, payment of the insurance charge shall be made in annual installments, with the first installment due on the 25th calendar day after the date the Secretary acknowledges the loan report, and the second and successive installments due on the 25th calendar day after the date of billing by the Secretary.

(ii) For any loan having a maturity in excess of 25 months, payment shall be made in annual installments of 1.00 percent of the loan amount until the insurance charge is paid.

* * * * *

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES

8. The authority citation for part 202 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709 and 1715b; 42 U.S.C. 3535(d).

9. Revise § 202.8(b)(1) to read as follows:

§ 202.8 Loan correspondent lenders and mortgagees.

* * * * *

(b) * * *

(1) *Net worth.* A loan correspondent lender or mortgagee shall have a net worth of not less than $63,000 in assets acceptable to the Secretary, plus an additional $25,000 for each branch office authorized by the Secretary, up to a maximum requirement of $250,000, except that a multifamily mortgagee shall have a net worth of not less than $250,000 in assets acceptable to the Secretary.

* * * * *

Dated: August 27, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–27900 Filed 11–6–01; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Wednesday,
November 7, 2001

Part V

Department of Education

Rehabilitation Short-Term Training; Notices

DEPARTMENT OF EDUCATION

Rehabilitation Short-Term Training

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Assistant Secretary for the Office of Special Education and Rehabilitative Services announces a priority under the Rehabilitation Short-Term Training program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2002 and in later years. We take this action to focus on training in areas of national need. We intend the priority to improve the leadership among top-level managers and administrators of the State Vocational Rehabilitation Services Program.

EFFECTIVE DATE: This priority is effective December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Christine Marschall, U.S. Department of Education, 400 Maryland Avenue, SW., room 3325, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–2779 or via Internet: *Christine.Marschall@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8133.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The State Vocational Rehabilitation Services Program continues to undergo significant change. Vocational rehabilitation (VR) programs are serving increased numbers of individuals with significant disabilities, are seeking to reach unserved and underserved populations, and increasingly are recognizing that their success in promoting the employment of their consumers depends in part on the strength of their linkages with employers and with generic employment and training programs. In their efforts to improve the employment outcomes of the individuals they serve, State VR agencies must remain alert to this ever-changing environment.

The changed environment of State VR agencies demands a different set of skills from leaders and managers than has traditionally been required. Managers and leaders in the VR system need to develop new skills to respond effectively to the changing demands. We have determined that it is in the best interest of the State VR Services Program to develop a leadership training program that focuses on leadership skills as applied to the unique issues facing the VR agencies in a peer setting. Progressive levels of training are needed to meet the varying needs of administrators and directors. One institute would ensure consistency in training and provide for better quality control. State agencies would be required to provide some degree of support to the program.

We published a notice of proposed priority for this program in the **Federal Register** on August 6, 2001 (66 FR 41126). The notice of proposed priority included a discussion of the significant issues and analysis used in the determination of this priority.

There are no differences between the notice of proposed priority and this notice of final priority.

Analysis Of Comments and Changes

In response to our invitation in the notice of proposed priority, three parties submitted comments on the proposed priority. An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize us to make under the applicable statutory authority.

Comments: One commenter recommended that we require the project to be based on academic credit and lead to a formal certificate or degree.

Discussion: While in Rehabilitation Long-Term Training grants there is a statutory requirement that training be based on academic credit and lead to a formal certificate or degree, there is no authority to include this requirement in the Rehabilitation Short-Term Training priority. However, programs that provide academic credit and lead to a formal certificate or degree are not prohibited under the priority.

Changes: None.

Comments: One commenter recommended a requirement that the training be linked directly to the Comprehensive System of Personnel Development requirements.

Discussion: We agree that there is a logical link between the proposed priority and the requirements of the Comprehensive System of Personnel Development. However, we do not agree that addressing such a link should be a requirement that an applicant must address.

Changes: None.

Comments: One commenter recommended that State agencies sending participants to the leadership program not be required to contribute to the cost of the program.

Discussion: The notice of proposed priority indicated the benefits associated with requiring financial support to be provided by the State agency of participants. We do not agree that elimination of the financial contributions of State agencies would contribute to the overall goals of the program.

Changes: None.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority

National Rehabilitation Leadership Institute

We will fund one project to establish a National Rehabilitation Leadership Institute that will focus on developing the leadership skills of top-level managers and administrators in State VR agencies. The project must have plans for addressing the leadership needs in all VR agencies funded under the Act and programs funded under section 121 of the Act.

The project must employ a curriculum that focuses on the development of leadership skills and on the application of those skills to current challenges and issues in the VR program. The project must be capable of structuring leadership curricula around

current VR issues of national significance, such as using VR evaluation standards and performance indicators to assess and improve agency performance, coordinating effectively with generic employment and training programs, and increasing client choice. The advisory committee (described later in this notice) and the Assistant Secretary will determine actual issues.

The project must employ a curriculum that includes several levels of training to meet the needs of audiences ranging from new State administrators and directors to seasoned administrators and directors. The project's curriculum must include sequential courses that allow for repeated practice of newly learned skills over time, with performance feedback. The project must provide training in a peer setting.

The project must coordinate its training activities with activities conducted under the State Vocational Rehabilitation Unit In-Service Training program, the Rehabilitation Continuing Education Program, and the National Technical Assistance Centers funded by the Rehabilitation Services Administration (RSA). These programs are also charged with improving the leadership skills of State agency personnel. Therefore, collaboration and coordination are necessary.

The project must establish an advisory committee that includes RSA central and regional office representatives, representatives of State VR agency administrators and trainers, rehabilitation counselors, VR clients, Regional Continuing Education Centers, other educators and trainers of VR personnel, tribes and tribal agencies, and others as determined to be appropriate by the grantee and RSA. This committee must provide substantial input on and direction to the training curriculum, including the specific VR issues to be incorporated.

The project must include an evaluation component based upon clear, specific performance and outcome measures. The results must be reported in its annual progress report.

The project must be designed to ensure that State agencies will contribute to the costs of the participant's training.

National Education Goals

The eight National Education Goals focus the Nation's education reform efforts and provide a framework for improving teaching and learning.

This priority is intended to address the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Applicable Program Regulations: 34 CFR parts 385 and 390.

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(Catalog of Federal Domestic Assistance Number 84.246D Rehabilitation Short-Term Training).

Program Authority: 29 U.S.C. 772.

Dated: November 2, 2001.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 01–27938 Filed 10–6–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.246D]

Rehabilitation Short-Term Training—National Rehabilitation Leadership Institute; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The Short-Term Training program supports special seminars, institutes, workshops, and other short-term courses in technical matters relating to the vocational, medical, social, and psychological rehabilitation programs, independent living services programs, and client assistance programs. This competition provides for the development of a leadership training program that focuses on leadership skills as applied to the unique issues facing the vocational rehabilitation agencies in a peer setting.

For FY 2002 the competition for new awards focuses on projects designed to meet the priority we reference in the PRIORITY section of this application notice.

Eligible Applicants: Public or nonprofit private agencies, institutions, and organizations, including Indian tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Short-Term Training program.

Applications Available: November 8, 2001.

Deadline for Tansmittal of Applications: January 9, 2002.

Deadline for Intergovernmental Review: March 10, 2002.

Estimated Available Funds: $250,000.

The Administration has requested $250,000 for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Award: $225,000 to $250,000.

Estimated Average Size of Award: $250,000.

Maximum Award: We will reject any application that proposes a budget exceeding $250,000 for a single budget period of 12 months. The Assistant Secretary for the Office of Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Page Limit: Part III of the application, the application narrative, is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 45 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all

text in charts, tables, figures, and graphs.

• Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 390.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority: This competition focuses on projects designed to meet the priority in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

For FY 2002 this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet the priority.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html.*

Or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.246D.

FOR FURTHER INFORMATION CONTACT: Christine Marschall, U.S. Department of Education, 400 Maryland Avenue, SW., room 3325, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–2779 or via Internet: *Christine.Marschall@ed.gov.*

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Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 29 U.S.C. 772.

Dated: November 2, 2001.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 01–27939 Filed 11–6–01; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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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.J. Res. 70/P.L. 107–58

Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Oct. 31, 2001; 115 Stat. 406)

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