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Contents

Federal Register

Vol. 66, No. 234

Wednesday, December 5, 2001

Editorial Note: In the **Federal Register** of December 4, 2001, the page numbers from all the entries in the table of contents were inadvertently replaced with Federal Register document numbers. A corrected table of contents for the December 4, 2001, issue appears after the Reader Aids section at the back of today's **Federal Register**.

Agency for Toxic Substances and Disease Registry

NOTICES

Superfund program:

Hazardous substances priority list (toxicological profiles); correction, 63244

Agriculture Department

See Animal and Plant Health Inspection Service

See Forest Service

Animal and Plant Health Inspection Service

RULES

Plant-related quarantine, domestic:

Karnal bunt, 63151–63154

NOTICES

Agency information collection activities:

Proposed collection; comment request, 63210–63212

Environmental statements; availability, etc.:

Toledo Bend Reservoir, LA and TX; aquatic weed giant salvinia; eradication and prevention of spread, 63212

Reports and guidance documents; availability, etc.:

Veterinary medicinal products, pharmacovigilance; periodic summary update reports management and controlled list of terms; guidelines, 63212–63214

Antitrust Division

NOTICES

Competitive impact statements and proposed consent judgments:

Waste Management Inc., et al., 63258

National cooperative research notifications:

Frame Relay Forum, 63258

IMS Global Learning Consortium, Inc., 63258–63259

New Productivity Initiative, Inc., 63259

Petroleum Environmental Research Forum, 63259

Portland Cement Association, 63260

VSI Alliance, 63259–63260

Zyvex Corp., 63260

Centers for Disease Control and Prevention

NOTICES

Agency information collection activities:

Submission for OMB review; comment request, 63244–63245

Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements

NOTICES

Cotton, wool, and man-made textiles:

Hong Kong, 63219–63221

Philippines, 63221–63222

Poland, 63222–63223

Slovak Republic, 63223

Taiwan, 63223–63225

Ukraine, 63225

General Agreement on Tariffs and Trade (GATT):

Textile and apparel products integration; export visa requirements, 63225–63227

Copyright Office, Library of Congress

NOTICES

Copyright office and procedures:

Materials delayed due to disruption or suspension of postal or other transportation or communications services, 63267–63268

Education Department

PROPOSED RULES

Postsecondary education:

Higher Education Act Title IV program issues; negotiated rulemaking committees; intent to establish, 63203–63204

Employment and Training Administration

RULES

Aliens:

Nonimmigrants on H-1B visas in specialty occupations and as fashion models, temporary employment; and permanent employment, labor certification process
Electronic filing implementation, 63297–63303

NOTICES

Adjustment assistance:

Atofina Chemicals, Inc., 63262

Borg Warner Air/Fluid Systems Corp., 63262–63263

Chiquola Fabrics, LLC, 63263

Elizabeth Webbing, Inc., 63263

International Wire Insulated, 63263

ISB Fashion, Inc., 63263–63264

Joint Venture Tool & Mold, LLC, 63264

JPS Converter & Industrial Corp., 63264

Northwestern Steel & Wire Co., 63264

Outboard Marine Corp., 63264–63265

Pillowtech Corp., 63265

Thrall Car North American Rail, 63266

Tridelta Industries, Inc., 63266

Adjustment assistance and NAFTA transitional adjustment assistance:

Innovative Home Products, Inc., 63261

Osram Sylvania Products, Inc., et al., 63261–63262

NAFTA transitional adjustment assistance:

Autoliv, ASP, Inc., 63266

Freightliner LLC, 63266–63267

York International Corp., 63267

Energy Department

See Federal Energy Regulatory Commission

Environmental Protection Agency

RULES

Air pollution control:

State operating permits programs—
Alaska, 63184–63188

Arizona, 63166–63168, 63175–63180
 Nevada, 63188–63192
 New Jersey, 63168–63170
 New York, 63180–63184
 Oklahoma, 63170–63175
 Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
 Dichlobenil, etc., 63192–63199
PROPOSED RULES
 Air quality implementation plans; approval and promulgation; various States:
 Missouri, 63204–63208
NOTICES
 Air pollution control:
 State operating permits programs—
 Maryland, 63236–63237
 Pesticide registration, cancellation, etc.:
 Chloropyrifos, 63237–63241
Executive Office of the President
 See Presidential Documents
Federal Aviation Administration
RULES
 Air traffic operating and flight rules, etc.:
 Grand Canyon National Park, AZ; special flight rules in vicinity—
 Special flight rules area and flight free zones; modification of dimensions, 63293–63296
 Airworthiness directives:
 Airbus, 63154–63157
 Fokker, 63159–63162
 McDonnell Douglas, 63157–63159
NOTICES
 Aeronautical land-use assurance; waivers:
 Greater Kankakee Airport, IL; correction, 63281
 Stafford Municipal Airport, AZ, 63281–63282
 Exemption petitions; summary and disposition, 63282–63283
 Passenger facility charges; applications, etc.:
 Binghamton Regional Airport, NY, 63283–63284
 Dayton International Airport, OH, 63284
 Duluth International Airport, MN, 63284–63285
 Orlando International Airport, FL, 63285–63286
 Shandoah Valley Regional Airport Commission, VA, et al., 63286–63287

Federal Communications Commission

RULES

Radio stations; table of assignments:
 Georgia, 63199

PROPOSED RULES

Television stations; table of assignments:
 Wisconsin, 63209

NOTICES

Agency information collection activities:
 Proposed collection; comment request, 63241

Federal Energy Regulatory Commission

RULES

Filing fees; annual update, 63162–63163

NOTICES

Agency information collection activities:
 Submission for OMB review; comment request, 63227
 Electric rate and corporate regulation filings:
 Allegheny Energy Supply Co., LLC, et al., 63233–63235
 Environmental statements; availability, etc.:
 John C. Jones Project, Waldo County, ME; facilitators improving fish habitat, 63235

St. Louis, MI, 63235
 Hydroelectric applications, 63235–63236
Applications, hearings, determinations, etc.:
 ANR Pipeline Co., 63227–63228
 Copiah County Storage Co., 63228–63229
 El Dorado Irrigation District, 63229
 Iroquois Gas Transmission System, L.P., 63230
 Kern River Gas Transmission Co., 63231
 KO Transmission Co., 63231
 National Fuel Gas Supply Corp., 63231–63232
 Natural Gas Pipeline Co. of America, 63232
 Portland General Electric Co. et al., 63232
 PSEG Energy Resources & Trade LLC, 63232
 Southern Indiana Gas & Electric Co., 63233
 Transok, LLC, 63233

Federal Highway Administration

NOTICES

Environmental statements; notice of intent:
 King County, WA, 63287–63288
 Mercer and Middlesex Counties, NJ, 63288–63289
 Waukesha County, WI, 63289

Federal Motor Carrier Safety Administration

NOTICES

Motor carrier safety standards:
 Driver qualifications—
 Aldridge, Terry J., et al; vision requirement exemptions, 63289–63291

Federal Reserve System

NOTICES

Agency information collection activities:
 Proposed collection; comment request, 63241–63243
 Banks and bank holding companies:
 Change in bank control, 63243

Fish and Wildlife Service

NOTICES

Endangered and threatened species:
 Recovery plans—
 Karner blue butterfly, 63248–63249
 Endangered and threatened species permit applications, 63247–63248

Food and Drug Administration

RULES

Animal drugs, feeds, and related products:
 Carprofen, 63165–63166
 Ivermectin liquid, 63166
 Ivermectin pour-on, 63164–63165
 Sponsor name and address changes—
 Merial Ltd., 63163–63164

Foreign-Trade Zones Board

NOTICES

Applications, hearings, determinations, etc.:
 North Carolina
 United Chemi-Con, Inc.; aluminum electrolytic capacitor manufacturing plant, 63216

Forest Service

NOTICES

Appealable decisions; legal notice:
 Southern Region; correction, 63214–63216

Health and Human Services Department

See Agency for Toxic Substances and Disease Registry

See Centers for Disease Control and Prevention
See Food and Drug Administration

NOTICES

Meetings:

Vital and Health Statistics National Committee, 63243–63244

Housing and Urban Development Department**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 63245–63246

Low income housing:

Difficult development areas and qualified census tracts; statutorily mandated designation for tax credit; correction, 63246–63247

Public and Indian housing:

Public Housing Assessment System—
Public housing agencies interim scoring methodology and physical and financial condition scoring processes; correction, 63247

Indian Affairs Bureau**NOTICES**

Meetings:

Indian trust asset management; tribal consultation, 63305–63306

Indian Trust Transition Office**NOTICES**

Meetings:

Indian trust asset management; tribal consultation, 63305–63306

Interior Department

See Fish and Wildlife Service

See Indian Affairs Bureau

See Indian Trust Transition Office

See Land Management Bureau

See Minerals Management Service

See Reclamation Bureau

See Special Trustee for American Indians Office

NOTICES

Meetings:

Indian trust asset management; tribal consultation, 63305–63306

Internal Revenue Service**PROPOSED RULES**

Income taxes:

Constructive and property transfers to third party on behalf of spouse
Hearing cancelled, 63203

International Trade Administration**NOTICES**

Antidumping:

Folding gift boxes from—
China, 63216–63218

Steel concrete reinforcing bars from—
Turkey, 63218

Applications, hearings, determinations, etc.:

University of—
Connecticut et al., 63218

International Trade Commission**NOTICES**

Import investigations:

Top-of-stove stainless steel cooking ware from—
Korea and Taiwan, 63255

Justice Department

See Antitrust Division

See Parole Commission

NOTICES

Pollution control; consent judgments:

Acme Wrecking Co., Inc., et al., 63255–63256
American Allied Additives, Inc., et al., 63256
Equilon Pipeline Co., LLC, et al., 63256–63257
Gallo Glass Co., 63257
VanDerVeen, Calvin, et al., 63257

Privacy Act:

Systems of records, 63257–63258

Labor Department

See Employment and Training Administration

Land Management Bureau**NOTICES**

Meetings:

Steens Mountain Advisory Council, 63249–63250

Library of Congress

See Copyright Office, Library of Congress

Medicare Payment Advisory Commission**NOTICES**

Meetings, 63268

Minerals Management Service**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 63250–63255

National Oceanic and Atmospheric Administration**RULES**

Fishery conservation and management:

West Coast States and Western Pacific fisheries—
Pacific Coast groundfish, 63199–63202

NOTICES

Deep seabed mining exploration licenses:

Ocean Minerals Co., 63218–63219

Nuclear Regulatory Commission**NOTICES**

Environmental statements; availability, etc.:

Southern Nuclear Operating Co., Inc., et al., 63268–63269

Applications, hearings, determinations, etc.:

Nuclear Management Co., LLC; correction, 63268

Parole Commission**NOTICES**

Meetings; Sunshine Act, 63260–63261

Presidential Documents**PROCLAMATIONS**

Special observances:

World AIDS Day (Proc. 7510), 63149–63150

Public Health Service

See Agency for Toxic Substances and Disease Registry

See Centers for Disease Control and Prevention

See Food and Drug Administration

Reclamation Bureau

NOTICES

Environmental statements; availability, etc.:
American River Pump Station Project, Placer County, CA,
63255

Securities and Exchange Commission

NOTICES

Self-regulatory organizations; proposed rule changes:
Chicago Stock Exchange, Inc., 63269–63271
National Association of Securities Dealers, Inc., 63271–
63277
Philadelphia Stock Exchange, Inc., 63277–63278

Social Security Administration

NOTICES

Meetings:
President's Commission to Strengthen Social Security,
63278

Special Trustee for American Indians Office

NOTICES

Meetings:
Indian trust asset management; tribal consultation,
63305–63306

State Department

NOTICES

Foreign Service posts; designation for special fee payment
procedures, 63278–63279
Grants and cooperative agreements; availability, etc.:
Future Leaders Exchange Program; Computer Training of
Trainers Workshop, 63279–63281

Surface Transportation Board

NOTICES

Railroad operation, acquisition, construction, etc.:
Jackson County Port Authority Railroad, 63291

Textile Agreements Implementation Committee

See Committee for the Implementation of Textile
Agreements

Toxic Substances and Disease Registry Agency

See Agency for Toxic Substances and Disease Registry

Transportation Department

See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Surface Transportation Board

Treasury Department

See Internal Revenue Service

NOTICES

Agency information collection activities:
Submission for OMB review; comment request, 63291

Veterans Affairs Department

NOTICES

Meetings:
Geriatrics and Gerontology Advisory Committee, 63292
Prosthetics and Special-Disabilities Programs Advisory
Committee, 63292

Separate Parts In This Issue

Part II

Transportation Department, Federal Aviation
Administration, 63293–63296

Part III

Labor Department, Employment and Training
Administration, 63297–63303

Part IV

Department of Interior, Bureau of Indian Affairs, and Indian
Trust Transition Office, 63305–63306

Reader Aids

Consult the Reader Aids section at the end of this issue for
phone numbers, online resources, finding aids, reminders,
and notice of recently enacted public laws.

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LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list
archives, FEDREGTOC-L, Join or leave the list (or change
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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Proclamations:**

7510.....63149

7 CFR

301.....63151

14 CFR39 (3 documents)63154,
63157, 63159

93.....63294

18 CFR

381.....63162

20 CFR

655.....63298

21 CFR510 (2 documents)63163,
63164520 (2 documents)63165,
63166

524.....63164

26 CFR**Proposed Rules:**

1.....63203

34 CFR**Proposed Rules:**

Ch. VI.....63203

40 CFR70 (7 documents)63166,
63168, 63170, 63175, 63180,
63184, 63188

180.....63192

Proposed Rules:

52.....63204

47 CFR

73.....63199

Proposed Rules:

73.....63209

50 CFR

600.....63199

660.....63199

Presidential Documents

Title 3—

Proclamation 7510 of November 30, 2001

The President

World Aids Day, 2001

By the President of the United States of America**A Proclamation**

This year marks the 20th year that the world has been fighting the disease that we now know as Acquired Immunodeficiency Syndrome (AIDS). AIDS has inflicted a terrible toll upon the world, taking millions of lives and causing untold grief to the families and friends of its victims. An estimated 40 million people worldwide are living with the Human Immunodeficiency Virus (HIV), which causes AIDS; and more than 8,000 people across the globe die from AIDS every day. Sadly, since its inception, AIDS has claimed the lives of more than 22 million individuals.

This year's World AIDS Day theme is "I Care . . . Do You? Youth and AIDS in the 21st Century." The goal underscoring this year's theme is ensuring greater education and involvement of young people in preventing HIV/AIDS. And it seeks to stress that every individual has both the responsibility and the opportunity to help prevent the spread of HIV/AIDS and to assist those suffering from the disease.

In many countries, including the United States, young people and adolescents are at a higher risk for contracting HIV infection. We know from epidemiological data that young people under the age of 25 comprise half of all new HIV infections worldwide. This sobering reality is a clarion call to public health networks around the world to redouble their efforts in providing information to young people about preventing HIV/AIDS, and most importantly, about abstinence and how it can help to prevent the spread of this disease.

The AIDS epidemic has had a devastating impact on diverse communities, and disadvantaged youth have borne the brunt of this devastation. Impoverished conditions and depressed economic circumstances tend to accompany an increased presence of HIV in these communities. We must develop and implement better ways to communicate to youth about abstinence and other effective measures that will help them to avoid the disease and to envision a future filled with possibility.

We must also continue our efforts to develop a vaccine that will protect individuals from becoming infected with HIV. Our children deserve to live in a world free from the fear of HIV/AIDS, and the United States will not weaken in its resolve to lead the world towards that goal.

As we enter the third decade of the AIDS pandemic, our hearts go out to those who have been afflicted with or affected by this deadly disease. We resolve to stand together as a Nation and with the world to fight AIDS on all fronts. We resolve to provide the resources necessary to combat HIV/AIDS. And we resolve to ensure that those suffering with HIV/AIDS receive effective care and treatment, compassionate understanding, and encouraging hope.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 1, 2001, as World AIDS Day. I invite the Governors of the States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction

of the United States, and the American people to join me in reaffirming our commitment to combat HIV/AIDS. I encourage every American to participate in appropriate commemorative programs and ceremonies in workplaces, houses of worship, and other community centers to reach out and protect and educate our children, and to help comfort all people who are living with HIV and AIDS.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.

A handwritten signature in black ink, appearing to read "George W. Bush". The signature is written in a cursive style with a large, sweeping initial "G" and a long, horizontal tail stroke.

Rules and Regulations

Federal Register

Vol. 66, No. 234

Wednesday, December 5, 2001

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 00-088-2]

Karnal Bunt; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations by adding new areas to the list of areas regulated because of Karnal bunt, a fungal disease of wheat, due to the detection during the 2000 harvest of bunted kernels in grain grown in these areas. We are also removing certain fields from regulation because wheat is no longer grown in those fields or because fields previously classified as regulated areas have produced grain that has tested negative for Karnal bunt. These actions will help prevent the spread of Karnal bunt into noninfested areas of the United States and remove from regulation certain fields where restrictions no longer appear to be warranted.

EFFECTIVE DATE: December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal S. Malik, National Karnal Bunt Coordinator, PPQ, APHIS, USDA, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-6774.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the planting of infected seed. Some countries in the

international wheat market regulate Karnal bunt as a fungal disease requiring quarantine; therefore, without measures taken by the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), to prevent its spread, the presence of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

The regulations regarding Karnal bunt are set forth in 7 CFR 301.89-1 through 301.89-16 (referred to below as the regulations).

On April 20, 2001, we published in the **Federal Register** (66 FR 20204-20208, Docket No. 00-088-1) a proposal to amend the regulations by adding new areas to the list of areas regulated because of Karnal bunt due to the detection during the 2000 harvest of bunted kernels in grain grown in those areas. We also proposed to remove fields from regulation because wheat is no longer grown in those fields or because the fields, which were previously classified as regulated areas because they were planted with seed that was suspected to be contaminated with Karnal bunt, have now produced grain that has tested negative for Karnal bunt.

We solicited comments concerning our proposal for 60 days ending June 19, 2001. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change. However, since the publication of the proposed rule, we have published two interim rules adding regulated areas in Texas. Specifically, in an interim rule effective on June 8, 2001, and published on June 14, 2001, (66 FR 32209-32210, Docket No. 01-058-1), we added Throckmorton and Young Counties, TX, to the list of regulated areas in § 301.89-3(f) and solicited comments on that action for 60 days ending on August 13, 2001. Subsequently, we published a second interim rule, effective on July 13, 2001, and published on July 19, 2001 (66 FR 37575-37576, Docket No. 01-063-1), that added Archer and Baylor Counties, TX, to that list, and solicited comments on that action for 60 days ending on September 17, 2001. The addition of those four counties to the list of regulated areas is reflected in § 301.89-3(f) in this rule.

Effective Date

This is a substantive rule that, in part, relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553(d)(1), the provisions of this rule that relieve restrictions may be made effective less than 30 days after publication in the **Federal Register**. This rule removes certain fields in Arizona and New Mexico from the list of areas regulated because of Karnal bunt either because wheat is no longer grown in those fields or because grain from those fields has tested negative for Karnal bunt. This action will eliminate restrictions on the movement of wheat and other regulated articles from these fields.

This rule also adds certain fields in Arizona to the list of regulated areas due to the detection of Karnal bunt. This action is necessary to help prevent the spread of the disease to noninfested areas in the United States. Consequently, we find good cause under 5 U.S.C. 553(d)(3) to make these restrictions effective less than 30 days after publication in the **Federal Register**.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

Upon the initial detection of Karnal bunt in Arizona in March of 1996, a Federal quarantine and emergency actions were imposed to prevent the interstate spread of the disease to other wheat producing areas in the United States. The quarantine has remained in effect, although it has since been modified in terms of its physical boundaries and restrictions on the production and movement of regulated articles.

Effects on Deregulated Areas

This final rule will remove from regulation 9 fields in Arizona and 16 fields in New Mexico, reducing the size of the regulated area in both States. The fields that are being removed by this rule cover about 290 acres in Arizona and 530 acres in New Mexico.

We estimate that one wheat producer in Arizona and six wheat producers in New Mexico will be affected by that aspect of this rule. Under the regulations, wheat, durum wheat, and triticale may only be moved from regulated areas to nonregulated areas if it tests negative for bunted kernels. Additionally, commercial wheat seed may not be moved from regulated to nonregulated areas. Producers whose fields are removed from regulation will benefit because they will be able to move wheat and other regulated articles from these fields without restriction.

These benefits, however, are likely to be minimal. Considering that the testing of grain for Karnal bunt is already a free service for all producers in regulated areas, the elimination of testing requirements removes an inconvenience only, not a financial burden. Further, little or no commercial wheat seed is, or is expected to be, grown in the affected fields.

Similarly, this aspect of the rule will not serve to significantly reduce the need for equipment cleaning by producers or by custom combine harvesters who routinely move their machines into and out of regulated areas to harvest wheat for multiple producers. In the past, there has been little need for such cleaning because crops harvested in the affected fields have not produced bunted kernels, and equipment must be cleaned only if it has been used to harvest host crops that test positive for Karnal bunt.

One field in Arizona will be removed from regulation because it is currently being used for the construction of houses. In this case, no wheat producers or custom harvesters will be affected because the field is not being used for agricultural purposes.

Effects on Regulated Areas

The new areas being added to the regulated area in Arizona cover about 23,100 acres and contain approximately 600 fields. We estimate that about 15 wheat producers and 6 custom combine harvesters will be affected by this aspect of the rule. However, the effect on each is not likely to be significant. As previously stated, the required grain testing is performed free of charge for producers in regulated areas. Also, little or no commercial wheat seed is, or is expected to be, grown in the affected fields. Finally, mechanized harvesting equipment does not have to be cleaned and disinfected prior to movement from a regulated area unless it has been used to harvest crops that test positive for Karnal bunt.

Overall, the regulated agricultural acreage in Arizona will increase by

about 22,810 acres to approximately 281,000 acres. In New Mexico, regulated agricultural acreage will decrease by approximately 530 acres to about 3,300 acres.

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small businesses, organizations, and governmental jurisdictions. In this case, entities that will be most affected by this rule are wheat producers and custom combine harvesters. The size of these entities is unknown. It is reasonable to assume, however, that most are small in size according to the U.S. Small Business Administration's (SBA) criteria. This assumption is based on composite data for providers of the same and similar services. For example, in 1997, of the 6,135 wheat and other farms in Arizona, 89 percent had annual sales of less than \$0.5 million, the SBA's threshold for a small wheat farm. Similarly, in 1997, there were 366 U.S. firms involved in mechanical harvesting and related activities, including combining of crops. Of these firms, 93 percent had less than \$5.0 million in annual sales, which is the SBA's threshold for a small entity for businesses of that type.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12988

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

This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

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

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

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

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

2. In § 301.89–3, paragraph (f) is revised to read as follows:

§ 301.89–3 Regulated areas.

* * * * *

(f) The following areas or fields are designated as regulated areas (maps of the regulated areas may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, MD 20737–1236):

Arizona

La Paz County. (1) Beginning at the southeast corner of sec. 33, T. 5 N., R. 21 W.; then west to the Colorado River; then north along the Colorado River to the west edge of sec. 26, T. 6 N., R. 22 W.; then north to the northwest corner of sec. 26, T. 6 N., R. 22 W.; then east to the northeast corner of sec. 27, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 10, T. 5 N., R. 21 W.; then west to the southwest corner of sec. 10, T. 5 N., R. 21 W.; then south to the point of beginning.

(2) Beginning at the southeast corner of sec. 6, T. 7 N., R. 20 W.; then west to the southeast corner of sec. 35, T. 7 N., R. 21 W.; then south to the southeast corner of sec. 2, T. 6 N., R. 21 W.; then west to the southeast corner of sec. 3, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 15, T. 6 N., R. 21 W.; then west to the southwest corner of sec. 13, T. 6 N., R. 22 W., then north to the northwest corner of sec. 25, T. 7 N., R. 22 W.; then east to the southwest corner of sec. 19, T. 7 N., R. 21 W.; then north to the Colorado River; then northeast along the Colorado River to the north edge of sec. 32, T. 8 N., R. 21 W.; then east to the northeast corner of sec. 31, T. 8 N., R. 20 W.; then south to the point of beginning.

Maricopa County. (1) Beginning at the southeast corner of sec. 12, T. 6 S., R. 6 W.; then west to the southwest corner of sec. 7, T. 6 S., R. 6 W.; then north to the northwest corner of sec. 7, T. 6 S., R. 6 W.; then west to the southwest corner of sec. 2, T. 6 S., R. 7 W.; then north to the northwest corner of sec. 14, T. 5 S., R. 7 W.; then east to the northeast corner of sec. 18, T. 5 S., R. 6 W.; then south to the southeast corner of sec. 19, T. 5 S., R. 6 W.; then east to the northeast corner of sec. 25, T. 5 S., R. 6 W.; then south to the point of beginning.

(2) Beginning at the southeast corner of sec. 34, T. 1 N., R. 2 W.; then west to the northeast corner of sec. 5, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 8, T. 1 S., R. 2 W.; then west to the southeast corner of sec. 11, T. 1 S., R. 4 W.; then south to the southeast corner of sec. 14, T. 1 S., R. 4 W.; then west to the southwest corner of sec. 14, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 14, T. 1 N., R. 5 W.; then east to the northwest corner of sec. 17, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 8, T. 1 N., R. 2 W.; then east to the northeast corner of sec. 10, T. 1 N., R. 2 W.; then south to the point of beginning.

(3) Beginning at the southeast corner of sec. 28, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 30, T. 1 S., R. 2 E.; then north to the southwest corner of sec. 18, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 14, T. 1 S., R. 1 E.; then north to the southwest corner of sec. 2, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 4, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 4, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 36, T. 1 N., R. 2 W.; then north to the southwest corner of sec. 25, T. 2 N., R. 2 W.; then west to the southwest corner of sec. 27, T. 2 N., R. 2 W.; then north to the northwest corner of sec. 3, T. 3 N., R. 2 W.; then east to the northeast corner of sec. 1, T. 3 N., R. 1 W.; then south to the northwest corner of sec. 19, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 23, T. 3 N., R. 1 E.; then south to the southeast corner of sec. 35, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 1, T. 2 N., R. 1 E.; then south to the northwest corner of sec. 18, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 13, T. 1 N., R. 2 E.; then south to the southeast corner of sec. 12, T. 1 S., R. 2 E.; then west to the southeast corner of sec. 9, T. 1 S., R. 2 E.; then south to the point of beginning.

(4) Beginning at the southeast corner of sec. 34, T. 2 N., R. 5 E.; then west to the southwest corner of sec. 31, T. 2 N.,

R. 5 E.; then north to the northwest corner of sec. 7, T. 2 N., R. 5 E.; then east to the northeast corner of sec. 10, T. 2 N., R. 5 E.; then south to the point of beginning.

(5) Beginning at the intersection of the Maricopa/Pinal County line and the southwest corner of sec. 31, T. 2 S., R. 5 E.; then north to the northwest corner of sec. 31, T. 2 S., R. 5 E.; then west to the southwest corner of sec. 25, T. 2 S., R. 4 E.; then north to the southwest corner of sec. 13, T. 2 S., R. 4 E.; then west to the southwest corner of sec. 15, T. 2 S., R. 4 E.; then north to the northwest corner of sec. 3, T. 2 S., R. 4 E.; then east to the southwest corner of sec. 35, T. 1 S., R. 4 E.; then north to the northwest corner of sec. 35, T. 1 S., R. 4 E.; then east to the northwest corner of sec. 34, T. 1 S., R. 5 E.; then north to the northwest corner of sec. 22, T. 1 S., R. 5 E.; then east to the northwest corner of sec. 20, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 8, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 7, T. 1 S., R. 7 E.; then south to the southeast corner of sec. 31, T. 1 S., R. 7 E.; then east to the northeast corner of sec. 5, T. 2 S., R. 7 E.; then south to the southeast corner of sec. 5, T. 2 S., R. 7 E.; then east to the Maricopa/Pinal County line; then south and west along the Maricopa/Pinal County line to the point of beginning.

(6) The following individual fields in Maricopa County are regulated areas:

301060505, 301060506, 301060601, 301060602, 301060603, 301060604, 301102505, 301102506, 303111502, 303111503, 304031904, 304031906, 304073004, 304073005, 304073010, 304081410, 304081413, 304081415, 304081417, 304081505, 304081506, 304082202, 304082302, 304082303, 304082607, 304082703, 306013222, 306013231, 306020404, 306020501, 306020601, 306020623, 316123301, 316123302, 316123303, 316131901, 316131904, 316132302, 316132604,

Pinal County. (1) Beginning at the intersection of the Maricopa/Pinal County line and the northwest corner of sec. 7, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 8, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 8, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 16, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 28, T. 2 S., R. 8 E.; then west to the southeast corner of sec. 29, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 32, T. 2 S., R. 8 E.; then west to the Maricopa/Pinal County line; then north along the Maricopa/Pinal County line to the point of beginning.

(2) Beginning at the point of intersection of the Maricopa/Pinal County line and the northeast corner of

sec. 5, T. 3 S., R. 6 E.; then south to the southeast corner of sec. 32, T. 3 S., R. 6 E.; then west to the southwest corner of sec. 34, T. 3 S., R. 5 E.; then north to the southwest corner of sec. 3, T. 3 S., R. 5 E.; then west to the southwest corner of sec. 6, T. 3 S., R. 5 E.; then north to the Maricopa/Pinal County line; then east along the Maricopa/Pinal County line to the point of beginning.

(3) Beginning at the southeast corner of sec. 5, T. 6 S., R. 4 E.; then west to the southwest corner of sec. 5, T. 6 S., R. 3 E.; then north to the southwest corner of sec. 28, T. 5 S., R. 3 E.; then west to the southwest corner of sec. 25, T. 5 S., R. 2 E.; then north to the southwest corner of sec. 24, T. 5 S., R. 2 E.; then west to the southwest corner of sec. 23, T. 5 S., R. 2 E.; then north to the northwest corner of sec. 35, T. 4 S., R. 2 E.; then east to the northwest corner of sec. 36, T. 4 S., R. 2 E.; then north to the northwest corner of sec. 25, T. 4 S., R. 2 E.; then east to the northwest corner of sec. 29, T. 4 S., R. 3 E.; then north to the northwest corner of sec. 20, T. 4 S., R. 3 E.; then east to the northeast corner of sec. 21, T. 4 S., R. 4 E.; then south to the northeast corner of sec. 4, T. 5 S., R. 4 E.; then east to the northeast corner of sec. 3, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 22, T. 5 S., R. 4 E.; then west to the southeast corner of sec. 21, T. 5 S., R. 4 E.; then south to the point of beginning.

(4) The following individual fields in Pinal County are regulated areas:

307012207, 308102604, 308102605, 309021801, 309021804, 309021812, 309031304, 309033507, 309042544, 309042545, 309042601, 309042607, 309042619, 309042620, 309042621, 309050104, 309050109, 309050122, 309050207, 309050209,

Yuma County. The following individual fields in Yuma County are regulated areas: 321011103, 321033501, 321033502, 321033503, 321033516, 321033517, 321033518, 321033519, 321040405, 321040911, 321040912, 321040915, 321040917, 321040918, 321040921, 321040922, 321041908, 321041919, 323030401, 323030402, 323030403, 323030404, 323030405, 323030406, 323030501, 323030502, 323030512, 323030513, 323030514, 323030515, 323030521.

California

Imperial County. Beginning at the intersection of the Riverside/Imperial County line and the California/Arizona State line; then west to the northwest corner of sec. 1, T. 9 S., R. 21 E.; then south to the California/Arizona State line; then east and north along the State line to the point of beginning.

Riverside County. Beginning at the intersection of the Riverside/Imperial County line and the California/Arizona State line; then west to the southwest corner of sec. 31, T. 8 S., R. 22 E.; then north to the northwest corner of sec. 30, T. 7 S., R. 22 E.; then north and northeast along the Palo Verde Valley agriculture area to the California/Arizona State line; then south along the State line to the point of beginning.

New Mexico

Dona Ana County. The following individual fields in Dona Ana County are regulated areas: 113040501, 113040502, 113040506, 113040507, 113040508, 113040602, 113040702, 113040902, 113042601, 113042707, 113042708, 113043401, 113043407, 113050201, 113050202, 113050301, 113060702, 113060703, 113060801, 113060809, 113060901, 113060902, 113070702, 113072701, 113072702, 113072703, 113072704, 113072705, 113072706, 113173103, 113210401, 113210402, 113210403, 113210406, 113210407, 113210808, 113212103, 113212802, 113212806, 113241601, 113242708,

Hidalgo County. The following individual fields in Hidalgo County are regulated areas: 123272403, 123353001.

Luna County. The following individual fields in Luna County are regulated areas: 129011301, 129012201, 129013003, 129013006, 129060901, 129060902, 129062001, 129062802, 129232801, 129232805, 129232806, 129300506, 129301104, 129301701, 129301801, 129302702, 129303302, 129440601, 129440602, 129440701, 129440708, 129441701,

Sierra County. The following individual fields in Sierra County are regulated areas: 151013401, 151441201, 151441202, 151441306, 151442201, 151442601, 151442602, 151442603, 151442604, 151442605, 151442606, 151442607, 151442608, 151442609, 151442610, 151442611, 151442612, 151442613, 151442614, 151442701, 151443501, 151443502, 151443503, 151443601, 151443602, 151443603, 151443604, 151453001, 151453101, 151453102, 151453103, 151453104, 151453106.

Texas

Archer County. The entire county.

Baylor County. The entire county.

El Paso County. The following individual fields in El Paso County are regulated areas: 441141301, 441142301, 441142302, 441142303, 441142304, 441142305, 441142306, 441142307, 441142401, 441142402, 441142403, 441142404, 441241301, 441241302, 441252801, 441252803, 441252804,

441252901, 441253201, 441253302, 441253401.

Hudspeth County. The following individual fields in Hudspeth County are regulated areas: 429050701, 429050702, 429070101, 429070102.

McCulloch County. Beginning at the McCulloch/San Saba County line and the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the line of longitude -99.13473 W.; then north along the line of longitude -99.13473 W. to the line of latitude 31.31004 N.; then east along the line of latitude 31.31004 N. to the line of longitude -99.11427 W.; then north along the line of longitude -99.11427 W. to the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the McCulloch/San Saba County line; then south to the point of beginning.

San Saba County. (1) Beginning at the San Saba/Mills County line and the line of longitude -98.5851 W.; then south along the line of longitude -98.5851 W. to the line of latitude 31.167959 N.; then west along the line of latitude 31.167959 N. to the line of longitude -98.903233 W.; then north along the line of longitude -98.903233 W. to the line of latitude 31.310819 N.; then east along the line of latitude 31.310819 N. to the San Saba/Mills County line; then south along the San Saba/Mills County line to the point of beginning.

(2) Beginning at the San Saba/McCulloch County line and the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the line of longitude -99.063487 W.; then south along the line of longitude -99.063487 W. to the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the San Saba/McCulloch County line; then north along the San Saba/McCulloch County line to the point of beginning.

Throckmorton County. The entire county.

Young County. The entire county.

Done in Washington, DC, this 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-30105 Filed 12-4-01; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-349-AD; Amendment 39-12526; AD 2001-23-51]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A300 B4-600, B4-600R, and F4-600R (Collectively Called A300-600) Series Airplanes; and Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2001-23-51 that was sent previously to all known U.S. owners and operators of certain Airbus Model A300 B4-600, B4-600R, and F4-600R (collectively called A300-600) series airplanes; and Model A310 series airplanes by individual notices. This AD requires a one-time detailed visual inspection to detect repairs and alterations to, and damage of the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings; and the rudder hinge fittings, hinge arms, and support fittings for all rudder hinges, and rudder actuator support fittings; and repair, if necessary. This AD also requires that operators report results of inspection findings to the FAA. This action is prompted by an airplane accident shortly after takeoff from John F. Kennedy International Airport, Jamaica, New York. The actions specified by this AD are intended to prevent failure of the vertical stabilizer-to-fuselage attachment fittings or transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, which could result in loss of the vertical stabilizer and/or rudder and consequent loss of control of the airplane.

DATES: Effective December 10, 2001, to all persons except those persons to whom it was made immediately effective by emergency AD 2001-23-51, issued on November 16, 2001, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before January 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-

349-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-349-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

Information pertaining to this AD may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Henry Offermann, Aerospace Engineer; Airframe and Cabin Safety Branch, ANM-115, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227-2676; fax (425) 227-1100.

SUPPLEMENTARY INFORMATION: On November 16, 2001, the FAA issued emergency AD 2001-23-51, which is applicable to certain Airbus Model A300 B4-600, B4-600R, and F4-600R (collectively called A300-600) series airplanes; and Model A310 series airplanes.

Background

On November 12, 2001, an Airbus Model A300 B4-605R airplane was involved in an accident shortly after takeoff from John F. Kennedy International Airport, Jamaica, New York. The cause of the accident is under investigation by the National Transportation Safety Board (NTSB). Although the NTSB has not determined the cause of the accident, it has determined that the vertical stabilizer departed the airplane. In addition, the rudder was found separated from the vertical stabilizer.

The vertical stabilizer on Airbus Model A300-600 series airplanes with Airbus Modification 4886 is manufactured of advanced composite materials. The vertical stabilizer on Airbus Model A310 series airplanes with the same modification is manufactured of the same materials. Failure of the vertical stabilizer-to-fuselage attachment fittings, transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, if not corrected, could result in loss of the vertical stabilizer and/or rudder and

consequent loss of control of the airplane.

The FAA considers that, before structural failure, it may be possible to detect indications of possible failure modes that could result in separation of the vertical stabilizer from the airplane. These indications include edge delaminations, cracked paint, surface distortions, other surface damage, and failure of the transverse (side) load fittings. Similarly, indications of failure of the rudder assembly, which could lead to failure of the vertical stabilizer, may also be detectable with such an inspection. Although neither the FAA nor the NTSB have reached conclusions with respect to these possible failures on the accident airplane, we consider it prudent to require an inspection of these structures to identify any such indication that may exist.

These airplane models are manufactured in France 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. The FAA has coordinated this action with the Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, and the DGAC has taken similar action.

Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 2001-23-51 to prevent failure of the vertical stabilizer-to-fuselage attachment fittings or transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, which could result in loss of the vertical stabilizer and/or rudder and consequent loss of control of the airplane. The AD requires a one-time detailed visual inspection to detect repairs and alterations to, and damage of the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings; and the rudder hinge fittings, hinge arms, and support fittings for all rudder hinges, and rudder actuator support fittings; and repair, if necessary. Damage of the metallic areas includes pulled or loose fasteners, wear areas, distorted flanges, cracks, and corrosion. Damage of the composite areas includes delamination; distorted surfaces that may indicate delamination; cracks in the paint surface; evidence of moisture damage; and cracked, splitting, or frayed fibers. This AD also requires that operators

report results of inspection findings to the FAA.

Interim Action

This is considered to be interim action. The inspection report that is required by this AD will enable the FAA, DGAC, and manufacturer to obtain better insight into the potential unsafe condition, and eventually to develop final action to address it, if necessary. If final action is identified, the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on November 16, 2001, to all known U.S. owners and operators of certain Airbus Model A300 B4-600, B4-600R, and F4-600R (collectively called A300-600) series airplanes; and Model A310 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that

summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-349-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 2001-23-51 Airbus Industrie:
Amendment 39-12526. Docket 2001-NM-349-AD.

Applicability: Model A300 B4-600, B4-600R, and F4-600R (collectively called A300-600) series airplanes; and Model A310 series airplanes; certificated in any category; having a vertical stabilizer made of composite material (reference Airbus Modification 4886).

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

Compliance: Required as indicated, unless accomplished within the last 6 months.

To prevent failure of the vertical stabilizer-to-fuselage attachment fittings or transverse (side) load fittings, or rudder-to-vertical stabilizer attachment fittings, which could result in loss of the vertical stabilizer and/or rudder and consequent loss of control of the airplane, accomplish the following:

Compliance Time

(a) Within 15 days after the effective date of this AD, do the inspections specified in paragraphs (b) and (c) of this AD.

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

Inspection and Corrective Actions

(b) Perform a one-time detailed visual inspection to detect repairs and alterations to, and damage of the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings. Any alteration made to the composite structures, either during production or post-production, is considered areas of primary concern. Gain access to the vertical stabilizer attachment fittings by removing external fairings and internal access covers and inspect both sides of affected attachment fittings. Damage of the metallic areas includes pulled or loose fasteners, wear areas, distorted flanges, cracks, and corrosion. Damage of the composite areas includes delamination; distorted surfaces that may indicate delamination; cracks or abrading in the paint surface; surface damage; evidence of

moisture damage; and cracked, splitting, or frayed fibers.

(1) If any damage is found to the vertical stabilizer attachment fittings, including the main attachment lugs and the transverse (side) load fittings, before further flight, repair per a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate.

(2) If any repair or alteration to the attachment lug areas of the vertical stabilizer has been accomplished previously, before further flight, the repair or alteration must be approved by the Manager, International Branch, ANM-116.

(c) Perform a one-time detailed visual inspection to detect damage of the rudder hinge fittings, hinge arms, and support fittings for all rudder hinges, and rudder actuator support fittings. Damage of the metallic areas includes pulled or loose fasteners, wear areas, distorted flanges, cracks, and corrosion. Damage of the composite areas includes delamination; distorted surfaces that may indicate delamination; cracks or abrading in the paint surface; surface damage; evidence of moisture damage; and cracked, splitting, or frayed fibers. If any damage is found, before further flight, repair per the manufacturer's structural repair manual, or per a method approved by the Manager, International Branch, ANM-116.

Report

(d) Submit a report of inspection findings (both positive and negative) to the Manager, International Branch, ANM-116; fax (425) 227-1149; at the applicable time specified in paragraph (d)(1) or (d)(2) of this AD. The report must include the inspection results, a description of any repair, alteration, or discrepancy found, including digital photographs of the damaged area, the airplane serial number, and the number of flight cycles and flight hours on the airplane. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit the report within 5 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the inspection has been accomplished prior to the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 3: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

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

Effective Date

(g) This amendment becomes effective on December 10, 2001, to all persons except those persons to whom it was made immediately effective by emergency AD 2001-23-51, issued on November 16, 2001, which contained the requirements of this amendment.

Issued in Renton, Washington, on November 26, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-30082 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-345-AD; Amendment 39-12553; AD 2001-25-01]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model DC-8-33, -43, -51, -52, -53, and -55 Series Airplanes; Model DC-8F-54, and -55 Series Airplanes; and Model DC-8-61, -61F, -62, -62F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-8-33, -43, -51, -52, -53, and -55 series airplanes; Model DC-8F-54, and -55 series airplanes; and Model DC-8-61, -61F, -62, -62F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F series airplanes. This action requires repetitive inspections of the electrical connectors of the explosive cartridge wiring of the engine fire extinguisher containers to verify if the identification number labels are installed and legible; repetitive electrical tests of all explosive cartridge wiring of the engine fire extinguisher containers to verify proper installation and function; and corrective actions, if

necessary. This action is necessary to detect and correct cross-wired electrical connectors of the fire extinguishing system, which could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire.

DATES: Effective December 20, 2001.

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

Comments for inclusion in the Rules Docket must be received on or before February 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-345-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-345-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: William Bond, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5253; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: The FAA has received reports of electrical connectors of the engine fire extinguishing agent containers being cross-wired on certain McDonnell

Douglas DC-8 series airplanes. The fire extinguishing system on these airplanes consists of independent left- and right-wing fixed fire extinguisher installations. Each wing installation includes two containers with two fire extinguishing agent deployment lines per container. Either container of a wing installation may be discharged into either engine nacelle of the same wing. In one incident, six of eight electrical connectors of the explosive cartridges were found installed on the incorrect cartridge/discharge valve. These reported incidents were caused by unclear maintenance instructions and an inadequate wire harness design that does not prevent cross-connecting the electrical connectors. Cross-wired electrical connectors of the fire extinguishing system, if not corrected, could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC8-26A046, dated November 7, 2001. The service bulletin describes procedures for repetitive inspections of the electrical connectors of the explosive cartridge wiring of the fire extinguisher containers to verify if the identification number labels are installed and legible; and installation of a label or replacement of the label with a new label, if necessary. The service bulletin also describes procedures for repetitive electrical tests of the explosive cartridge wiring of the fire extinguisher container to verify proper installation and function, and for troubleshooting and repairing the wiring of the Firex Discharge system, if necessary.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model DC-8-33, -43, -51, -52, -53, and -55 series airplanes; Model DC-8F-54, and -55 series airplanes; and Model DC-8-61, -61F, -62, -62F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F series airplanes of the same type design, this AD is being issued to detect and correct cross-wired electrical connectors of the fire extinguishing system, which could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin recommends accomplishing the inspection within two days (from the issue date of the service bulletin), the FAA has determined that a compliance time of 30 days will not adversely affect safety, and will allow the inspections and tests to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. In addition, there has only been one reported engine fire in the entire DC-8 worldwide fleet in the last five years. Therefore, we find that a compliance time of 30 days is warranted.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.

- Include justification (e.g., reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-345-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001-25-01 McDonnell Douglas:

Amendment 39-12553. Docket 2001-NM-345-AD.

Applicability: Model DC-8-33, -43, -51, -52, -53, and -55 series airplanes; Model DC-8F-54, and -55 series airplanes; and Model DC-8-61, -61F, -62, -62F, -63, -63F, -71, -71F, -72, -72F, -73, and -73F series airplanes; certificated in any category; as listed in Boeing Alert Service Bulletin DC8-26A046, dated November 7, 2001.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cross-wired electrical connectors of the fire extinguishing system, which could release fire extinguishing agent into the incorrect engine nacelle in the event of an engine fire, accomplish the following:

Repetitive Inspections and Tests, and Corrective Action(s), if Necessary

(a) Within 30 days after the effective date of this AD, do the action(s) specified in paragraphs (a)(1) and (a)(2) of this AD per Boeing Alert Service Bulletin DC8-26A046, dated November 7, 2001.

(1) Do an inspection of the electrical connectors of the explosive cartridge wiring of the engine fire extinguisher containers to verify if the identification number labels are installed and legible. If any identification number label is missing or is not legible, before further flight, install a label or replace the label with a new label, as applicable. Repeat the inspection after each maintenance action for the Firex Discharge system.

(2) Do an electrical test of all explosive cartridge wiring of the engine fire extinguisher containers to verify proper installation and function, using the cockpit warning lamps. If the lamp fails to illuminate, before further flight, troubleshoot and repair the wiring of the Firex Discharge system. Repeat the test after each maintenance action for the Firex Discharge system.

Note 2: Inspections, tests, and corrective actions, if necessary, done per Boeing BOECOM M-7200-01-02632, dated November 5, 2001, before the effective date of this AD, are considered acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC8-26A046, dated November 7, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

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

Issued in Renton, Washington, on November 29, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-30084 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-327-AD; Amendment 39-12527; AD 2001-24-10]

RIN 2120-AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0100 series airplanes. This action requires repetitive inspections of certain main landing gear (MLG) main fittings to detect forging defects, and rework of the main fittings if necessary. This action is necessary to detect forging defects of the MLG main fittings, which could lead to cracking and result in significant structural damage to the airplane and possible injury to the occupants.

DATES: Effective December 20, 2001.

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

Comments for inclusion in the Rules Docket must be received on or before January 4, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-327-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain "Docket No. 2001-NM-327-AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate,

1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1137; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority—The Netherlands (CAA-NL), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on certain Fokker Model F.28 Mark 0100 series airplanes. The CAA-NL advises that, upon touchdown, a main landing gear (MLG) main fitting failed, causing the lower part of the main fitting to break off, including the MLG sliding member, wheels, and brakes. Subsequent inspection revealed a crack, located 5 centimeters outboard from the inboard face of the upstop damper abutment, which measured 12 millimeters in length and 2.5 millimeters in depth. In that same area, an operator found 3 more MLG main fittings with an indication of an eddy current defect. In several other cases, the crack was determined to be due to a forging defect. This condition, if not corrected, could lead to cracking and result in significant structural damage to the airplane and possible injury to the occupants.

Explanation of Relevant Service Information

Messier-Dowty Limited has issued Messier-Dowty Service Bulletin No. F100-32-101, including Appendices A and B, dated October 25, 2001, which describes procedures for two inspections of the MLG fittings for cracking and rework of the MLG main fittings within certain areas.

Service Bulletin No. F100-32-101 refers to Messier-Dowty Service Bulletin No. F100-32-100, Revision 1, dated June 19, 2001, and Fokker Service Bulletin SBF100-32-131, dated October 25, 2001, as additional sources of service information for the inspections and rework actions.

The CAA-NL classified Messier-Dowty Service Bulletin No. F100-32-100 as mandatory and issued Dutch airworthiness directive BLA 2001-080, dated June 29, 2001, for a one-time eddy current inspection and rework actions to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Determination

Although the previously referenced Dutch airworthiness directive specifies

a one-time eddy current inspection on MLG main fittings and rework actions per Messier-Dowty Service Bulletin No. F100-32-100, the FAA has determined that the initial and repetitive inspections required by paragraph (a) of this AD and the rework actions, if necessary, required by paragraph (b) of this AD must be made per Messier-Dowty Service Bulletin No. F100-32-101. This determination was made because the manufacturer informed the FAA that findings made after the issuance of Service Bulletin F100-32-100 indicate the need for additional eddy current inspections of the MLG main fittings. Findings also reveal that detection of closed forging folds might not be possible and that the forging folds would open when the main fittings are subjected to certain landing load levels. Because some detectable indications could be missed during the initial inspection, repetitive inspections are required to identify all detectable forging fold defects. To address these findings, Messier-Dowty has issued Service Bulletin No. F100-32-101 to specify additional inspections to safeguard the structural integrity of the MLG. As a result, the inspections required by paragraph (a) of this AD must be done per Service Bulletin No. F100-32-101 instead of Service Bulletin No. F100-032-100.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect forging defects of the MLG, and rework of the MLG main fittings if necessary. This AD requires initial and repetitive eddy current inspections of certain MLG main fittings to detect forging defects, and rework of the main fittings if necessary. This AD also would require that operators report all findings of the

eddy current inspections to Fokker Services B.V. This AD requires accomplishment of the actions per Messier-Dowty Service Bulletin No. F100-32-101, as described previously, except as discussed below.

Differences Between Dutch Airworthiness Directive and This AD

Operators should note that, as described earlier, Dutch airworthiness directive BLA 2001-080 specifies only a one-time eddy current inspection of the MLG main fittings and rework actions per Messier-Dowty Service Bulletin No. F100-32-100, or a later revision approved by the CAA-NL. However, this AD requires an initial eddy current inspection and repetitive inspections, and rework of the MLG main fittings if necessary, per Messier-Dowty Service Bulletin No. F100-32-101. The CAA-NL has notified the FAA that it will issue a new Dutch airworthiness directive to mandate the inspections, and rework if necessary, specified by Service Bulletin No. F100-32-101. However, operators should note that this AD differs from Dutch airworthiness directive BLA 2001-080 in that it would require continuing the inspections until a final terminating action is identified.

Operators also should note that a later revision of a service bulletin may not be referenced in an AD because the use of the phrase "or a later revision" would violate Office of the Federal Register regulations regarding the approval of materials that are incorporated by reference.

Differences Between the Service Information and This AD

Operators should note the following differences between Service Bulletin No. F100-32-101 and this AD:

- Although the referenced service bulletin specifies only two eddy current inspections, this AD requires an initial inspection and repetitive inspections until a final terminating action is identified. The FAA point outs that the exclusion of continued inspections after only two inspections relies on a damage tolerance approach. This approach leads the manufacturer to the conclusion that the crack growth is of a magnitude that would not lead to failure prior to overhaul. However, we do not agree with such a conclusion as there are a number of unknown variables associated with detecting and anticipating the effects of forging fold defects. For this reason, we have determined that requiring only two inspections would not adequately address the identified unsafe condition and that continued inspections until

accomplishment of a terminating action are necessary to ensure the continued airworthiness of the fleet.

- Although the referenced service bulletin specifies that the parts manufacturer may be contacted for disposition of certain discrepancies, this AD would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or CAA-NL (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair approved by either the FAA or CAA-NL (or its delegated agent) would be acceptable for compliance with this AD.

- The referenced service bulletin specifies that, after accomplishing the actions specified in that service bulletin, rework of the MLG main fittings is to be accomplished per a new service bulletin, Messier-Dowty Service Bulletin F100-32-102. However, because the new service bulletin has not been issued yet, this AD cannot specify that service bulletin. The new service bulletin is expected to include procedures that would terminate the need for the inspections required by this AD.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing rework procedures that will positively address the unsafe condition addressed by this AD. Once this procedure is developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before

the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-327-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final

regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001-24-10 Fokker Services B.V.:
Amendment 39-12527. Docket 2001-NM-327-AD.

Applicability: Model F.28 Mark 0100 series airplanes, certificated in any category, equipped with Messier-Dowty main landing gear units having part numbers (P/N) 201072011, 201072012, 201072013, 201072014, 201072015, or 201072016, that include main fitting subassemblies having P/Ns 201072283, 201072284, or 201251258 (main fittings having P/Ns 201072383, 201072384, or 201072389).

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

Compliance: Required as indicated, unless accomplished previously.

Note 2: This AD references Messier-Dowty Service Bulletin No. F100-32-101, including Appendices A and B, dated October 25, 2001, which is not referenced in Dutch airworthiness directive BLA 2001-080, dated June 29, 2001. In addition, this AD specifies additional inspections that are beyond those included in the service bulletin. Where there are differences between the AD and the service information, the AD prevails.

To detect forging defects of the main landing gear (MLG), which could lead to cracking and result in significant structural damage to the airplane and possible injury to the occupants, accomplish the following:

Initial and Repetitive Inspections

(a) Before the accumulation of 1,000 total landings on a new MLG, or within 30 days after the effective date of this AD, whichever occurs later: Do an initial eddy current inspection on all MLG main fittings to detect forging defects per Messier-Dowty Service Bulletin No. F100-32-101, including Appendices A and B, dated October 25, 2001. After accomplishment of the initial inspection, repeat the inspection thereafter at intervals not to exceed 500 landings or 6 months, whichever occurs first, per the service bulletin.

Rework

(b) After any inspection required by paragraph (a) of this AD, before further flight, accomplish the applicable actions required by paragraph (b)(1) or (b)(2) of this AD.

(1) If any cracking is found within the limits specified in Messier-Dowty Service Bulletin No. F100-32-101, including Appendices A and B, dated October 25, 2001: Rework the MLG main fitting per the service bulletin.

(2) If any cracking is found that exceeds the limits specified in Messier-Dowty Service Bulletin No. F100-32-101, including Appendices A and B, dated October 25, 2001: Rework the MLG main fitting per a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority "The Netherlands (CAA-NL) (or its delegated agent).

Exception to Service Information

(c) During any action required by this AD, if the service bulletin specifies to contact Messier-Dowty for an appropriate action: Before further flight, repair per a method approved by the Manager, International Branch, ANM-116; or the CAA-NL (or its delegated agent).

Reporting Requirement

(d) Within 7 days after accomplishing any inspection required by paragraph (a) of this AD: Submit a report of the inspection findings (positive and negative) to Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, fax number 31 (0) 252 627211. The report must include MLG crack indication, part number, serial number, crack depth and length, and a description of any rework of the MLG main fittings accomplished. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

Spares

(e) As of the effective date of this AD, no person shall install on any airplane, an MLG main fitting or main fitting subassembly having a part number specified in Paragraph 1.A of the "Effectivity" in Messier-Dowty

Service Bulletin No. F100-32-101, including Appendices A and B, dated October 25, 2001, unless the MLG fitting has been inspected, and the rework actions accomplished if necessary, per the service bulletin.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

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

Incorporation by Reference

(h) Except for the actions required by paragraphs (b)(2) and (c) of this AD, the actions shall be done in accordance with Messier-Dowty Service Bulletin No. F100-32-101, including Appendices A and B, dated October 25, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Dutch airworthiness directive BLA 2001-080, dated June 29, 2001.

Effective Date

(i) This amendment becomes effective on December 20, 2001.

Issued in Renton, Washington, on November 26, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-30081 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 381

[Docket No. RM02-6-000]

Annual Update of Filing Fees

November 29, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; annual update of Commission filing fees.

SUMMARY: In accordance with 18 CFR 381.104, the Commission issues this update of its filing fees. This notice provides the yearly update using data in the Commission's Management, Administrative, and Payroll System to calculate the new fees. The purpose of updating is to adjust the fees on the basis of the Commission's costs for Fiscal Year 2000.

EFFECTIVE DATE: January 4, 2002.

FOR FURTHER INFORMATION CONTACT: Troy Cole, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Room 42-66, Washington, DC 20426, 202-219-2970.

SUPPLEMENTARY INFORMATION:

Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online

icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS on the Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208-2222 (E

Mail to WebMaster@ferc.fed.us) or the Public Reference at (202) 208-1371 (E-Mail to public.referenceroom@ferc.fed.us).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

The Federal Energy Regulatory Commission (Commission) is issuing this notice to update filing fees that the Commission assesses for specific services and benefits provided to identifiable beneficiaries. Pursuant to 18 CFR 381.104, the Commission is establishing updated fees on the basis of the Commission's Fiscal Year 2000 costs. The adjusted fees announced in this notice are effective January 4, 2002. The Commission has determined with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this final rule is not a major rule within the meaning of section 251 of Subtitle E of Small Business Regulatory Enforcement Fairness Act 5 U.S.C. 804(2). The Commission is submitting this final rule to both houses of the United States Congress and to the Comptroller General of the United States.

The new fee schedule is as follows:

Fees Applicable to the Natural Gas Policy Act

1. Petitions for rate approval pursuant to 18 CFR 284.123(b)(2). (18 CFR 381.403)	\$8,230
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Fees Applicable to General Activities

1. Petition for issuance of a declaratory order (except under Part I of the Federal Power Act). (18 CFR 381.302(a))	16,530
2. Review of a Department of Energy remedial order:	

<i>Amount in controversy</i>	
\$0–9,999. (18 CFR 381.303(b))	100
10,000–29,999. (18 CFR 381.303(b))	600
30,000 or more. (18 CFR 381.303(a))	24,140
3. Review of a Department of Energy denial of adjustment:	
<i>Amount in controversy</i>	
\$0–9,999. (18 CFR 381.304(b))	100
10,000–29,999. (18 CFR 381.304(b))	600
30,000 or more. (18 CFR 381.304(a))	12,650
4. Written legal interpretations by the Office of General Counsel. (18 CFR 381.305(a))	4,740

Fees Applicable to Natural Gas Pipelines

1. Pipeline certificate applications pursuant to 18 CFR 284.224. (18 CFR 381.207(b))	¹ 1,000
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Fees Applicable to Cogenerators and Small Power Producers

1. Certification of qualifying status as a small power production facility. (18 CFR 381.505(a))	14,220
2. Certification of qualifying status as a cogeneration facility. (18 CFR 381.505(a))	16,090
3. Applications for exempt wholesale generator status. (18 CFR 381.801)	970

¹ This fee has not been changed.

List of Subjects in 18 CFR Part 381

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

Thomas R. Herlihy,
Executive Director and Chief Financial Officer.

In consideration of the foregoing, the Commission amends Part 381, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 381—FEES

1. The authority citation for Part 381 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

§ 381.302 [Amended]

2. In § 381.302, paragraph (a) is amended by removing “\$ 15,760” and adding “\$ 16,530” in its place.

§ 381.303 [Amended]

3. In 381.303, paragraph (a) is amended by removing “\$ 23,010” and adding “\$ 24,140” in its place.

§ 381.304 [Amended]

4. In § 381.304, paragraph (a) is amended by removing “\$ 12,060” and adding “\$ 12,650” in its place.

§ 381.305 [Amended]

5. In § 381.305, paragraph (a) is amended by removing “\$ 4,520” and adding “\$ 4,740” in its place.

§ 381.403 [Amended]

6. Section 381.403 is amended by removing “\$ 7,840” and adding “\$ 8,230” in its place.

§ 381.505 [Amended]

7. In § 381.505, paragraph (a) is amended by removing “\$ 13,550” and adding “\$ 14,220” in its place and by removing “\$ 15,340” and adding “\$ 16,090” in its place.

§ 381.801 [Amended]

8. Section 381.801 is amended by removing “\$ 1,310” and adding “\$ 970” in its place.

[FR Doc. 01–30125 Filed 12–4–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor’s Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor’s address for Merial Ltd.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, has informed FDA of a change of

sponsor’s address to 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because it is a rule of “particular applicability.” Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for “Merial Ltd.” and in the table in paragraph (c)(2) by revising the entry for “050604” to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096-4640..	050604
* * * * *	* * * * *

(2) * * *

Drug labeler code	Firm name and address
050604	* * * * * Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096-4640.
* * * * *	* * * * *

Dated: November 15, 2001.
Claire M. Lathers,
*Director, Office of New Animal Drug
 Evaluation, Center for Veterinary Medicine.*
 [FR Doc. 01-30038 Filed 12-4-01; 8:45 am]
BILLING CODE 4160-01-S

**DEPARTMENT OF HEALTH AND
 HUMAN SERVICES**

Food and Drug Administration

21 CFR Parts 510 and 524

**Ophthalmic and Topical Dosage Form
 New Animal Drugs; Ivermectin Pour-
 On**

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Virbac AH, Inc. The ANADA provides for topical use of ivermectin on cattle for treatment and control of various species of external and internal parasites.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0209, e-mail: lluther@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137, filed ANADA 200-

318 for VIRBAMEC (ivermectin) Pour-On. The ANADA provides for topical use of 0.5 percent ivermectin solution on cattle for the treatment and control of various species of gastrointestinal nematodes, lungworms, grubs, horn flies, lice, and mites. Virbac's VIRBAMEC Pour-On is approved as a generic copy of Merial Ltd.'s IVOMECEC Pour-On for Cattle, approved under NADA 140-841. The ANADA 200-318 is approved as of September 21, 2001, and the regulations in 21 CFR 524.1193 are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, Virbac AH, Inc., has not been previously listed in the animal drug regulations as a sponsor of an approved application. At this time, 21 CFR 510.600(c) is being amended to add entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because

it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "Virbac AH, Inc." and in the table in paragraph (c)(2) by numerically adding an entry for "051311" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *
(c) * * *
(1) * * *

Firm name and address	Drug labeler code
Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137	051311

(2) * * *

Drug labeler code	Firm name and address
051311	Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1193 [Amended]

4. Section 524.1193 *Ivermectin pour-on* is amended in paragraph (b) by adding “051311,” after “051259,” and in paragraph (e)(2) by removing “Damalina” and by adding in its place “Damalinia”.

Dated: November 9, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01-30037 Filed 12-4-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Carprofen

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for a once daily, 2-milligram per pound (mg/lb) dosage of carprofen, by oral caplet, for the relief of pain and inflammation associated with osteoarthritis in dogs.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV-110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7540.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017-5755, filed a supplement to approved NADA 141-053 that provides for veterinary prescription use of RIMADYL (carprofen) Caplets for the relief of pain and inflammation associated with osteoarthritis in dogs. The supplemental NADA provides for a once daily, 2-mg/lb dosage for the oral caplet dosage form. The supplemental application is approved as of September 27, 2001, and the regulations are amended in 21 CFR 520.309 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for non-food-producing animals qualifies for 3 years of marketing exclusivity beginning September 27, 2001, because the application contains substantial evidence of effectiveness of the drug involved or any studies of animal safety required for approval of the application and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because it is a rule of “particular applicability.” Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.309 is amended in paragraph (a) by adding “(mg)” after “milligrams”; and by revising paragraph (d) to read as follows:

§ 520.309 Carprofen.

* * * * *

(d) *Conditions of use in dogs*—(1) *Amount*—(i) *Caplet*. 2 mg per pound (lb) of body weight once daily or 1 mg/lb twice daily.

(ii) *Chewable tablet*. 1 mg/lb twice daily.

(2) *Indications for use*. For the relief of pain and inflammation associated with osteoarthritis in dogs.

(3) *Limitations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: November 9, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01-30039 Filed 12-4-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Liquid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by First Priority, Inc. The ANADA provides for oral use of ivermectin solution in horses for the treatment and control of various species of internal and cutaneous parasites.

DATES: This rule is effective December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0209.

SUPPLEMENTARY INFORMATION: First Priority, Inc., 1585 Todd Farm Dr., Elgin, IL 60123, filed ANADA 200-321 for PRIMECTIN™ (ivermectin) Equine Oral Liquid. The application provides for oral use of a 1.0 percent ivermectin solution in horses for the treatment and control of various species of gastrointestinal nematodes, lungworms, stomach bots, and cutaneous larvae and microfilariae. First Priority's PRIMECTIN™ Equine Oral Liquid is approved as a generic copy of Merial Ltd.'s EQVALAN® (ivermectin) Oral Liquid for Horses, approved under NADA 140-439. ANADA 200-321 is approved as of September 7, 2001, and 21 CFR 520.1195 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9

a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801-808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1195 is amended in paragraph (b) by adding "058829," after "051259"; by revising the heading of paragraph (c) and paragraph (c)(1); in paragraph (c)(2) by removing "It is used in horses"; and in paragraph (c)(3) by removing the first sentence to read as follows:

§ 520.1195 Ivermectin liquid.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* 200 micrograms per kilogram of body weight as a single dose by stomach tube or as an oral drench.

Dated: November 9, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01-30076 Filed 12-4-01; 8:45 am]

BILLING CODE 4160-01-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ060-OPP; FRL-7112-8]

Clean Air Act Full Approval of the Operating Permits Program for the Pinal County Air Quality Control District, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the Pinal County Air Quality Control District (Pinal or District) operating permits program. The Pinal program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On October 30, 1996, EPA granted interim approval to Pinal's operating permits program. The District revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on September 20, 2001, contingent upon Pinal submitting the rules to EPA as a revision to its part 70 program. Pinal County did so, and EPA did not receive any comments on the proposed action. This action promulgates final full approval of the Pinal operating permits program.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of Pinal's submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the submitted title V program at the following location: Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, Arizona 85232.

FOR FURTHER INFORMATION CONTACT: Emmanuelle Rapicavoli, EPA Region 9, at (415) 972-3969 or rapicavoli.emmanuelle@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

- I. Background on the Pinal County Air Quality Control District operating permits program
- II. EPA's Final Action
- III. Effective date of EPA's full approval of the Pinal County Air Quality Control District operating permits program

I. Background on the Pinal County Air Quality Control District Operating Permits Program

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. Pinal's operating permits program was submitted in response to this directive. Because the District program

substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on October 30, 1996. See 61 FR 55910. The interim approval notice described the conditions that had to be met in order for the District program to receive full approval.

After Pinal revised its program to address the conditions of the interim approval, EPA promulgated a proposal to approve the District's title V operating permits program on

September 20, 2001, contingent upon Pinal submitting the rules that were adopted on September 5, 2001, as a revision to its part 70 program. See 66 FR 48402.

II. EPA's Final Action

EPA is granting full approval to the operating permits program submitted by the Pinal County Air Quality Control District based on the revisions adopted on September 5, 2001, and submitted to EPA on September 18, 2001, which satisfactorily address the program

deficiencies identified in EPA's October 30, 1996 interim approval (61 FR 55910). In addition, EPA is approving, as a title V operating permits program revision, additional changes to Pinal's rules. The deficiency corrections and the additional program revisions are described in detail in the September 20, 2001 proposal and its accompanying technical support document. See 66 FR 48402.

The rules for which we are granting final approval are listed below.

Rule No.	Rule title	Adoption date	Submittal date
PCR 1-3-140 (79)	Definitions (definition of stationary source only)	9/5/01	9/18/01
PCR 3-1-040	Applicability and Classes of Permits	9/5/01	9/18/01
PCR 3-1-045	Transition from Installation and Operating Permit Program	9/5/01	9/18/01
PCR 3-1-050	Permit Application Requirements	9/5/01	9/18/01
PCR 3-1-081	Permit Conditions	9/5/01	9/18/01
PCR 3-4-420	Standards of Conditional Orders	9/5/01	9/18/01
PCR 3-5-490	Application for Coverage under a General Permit	9/5/01	9/18/01
PCR 3-5-550	Revocations of Authority to Operate under a General Permit	9/5/01	9/18/01

In its program submission, Pinal County did not assert jurisdiction over Indian country. To date, no tribal government in Pinal County has applied to EPA for approval to administer a title V program in Indian country within the County. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan v. EPA*, (D.C. Cir. No. 99-1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

III. Effective Date of EPA's Full Approval of the Pinal County Air Quality Control District Operating Permits Program

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the District's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less

than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of Pinal County's program expires on December 1, 2001. In the absence of this full approval of Pinal County's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Pinal County and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and Pinal County to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Pinal County has been administering the title V permit program for 5 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the

part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as

specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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). This rule will be effective on November 30, 2001.

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 February 4, 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 70

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

Dated: November 27, 2001.

Wayne Nastri,
Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

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

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

2. Appendix A to part 70 is amended by adding paragraph (d)(3) under Arizona to read as follows:

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

*	*	*	*	*
<i>Arizona</i>				
*	*	*	*	*
	(d)	*	*	*

(3) revisions submitted on September 18, 2001. Full approval is effective on November 30, 2001.

* * * * *

[FR Doc. 01-30100 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NJ002; FRL-7113-1]

Clean Air Act Final Full Approval of Operating Permit Program; New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating final full approval of the operating permit program submitted by the State of New Jersey in accordance with Title V of the Clean Air Act (the Act) and its implementing regulations. This approved program allows New Jersey to issue federally enforceable operating permits to all major stationary sources and to certain other sources within the State's jurisdiction.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866.

FOR FURTHER INFORMATION CONTACT: Steven C. Riva, Chief, Permitting Section, Air Programs Branch, at the above EPA office in New York or at telephone number (212) 637-4074.

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

1. What is the operating permits program?
2. What is being addressed in this document?
3. What are the program changes that EPA is approving?
4. What is involved in this final action?
5. What is the effective date of EPA's final full approval of the New Jersey title V program?

1. What Is the Operating Permits Program?

Title V of the Clean Air Act (CAA) and its implementing regulations at 40 CFR part 70 (part 70) direct all states to develop and implement operating permit programs that meet certain criteria. Operating permit programs are intended to consolidate into single

federally enforceable documents all CAA requirements that apply to individual sources. This consolidation of all of the applicable requirements for a source enables the source, the public, and permitting authorities to more easily determine what CAA requirements apply and whether the source is complying with them. Sources required to obtain operating permits include "major" sources of air pollution and certain other sources specified in CAA section 501 and in EPA's regulations at 40 CFR 70.3.

The EPA reviews state programs pursuant to title V of the CAA and part 70, which outline the criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval which would be effective for two years. If a state does not have in place a fully approved program by the time the interim approval expires, the federal operating permit program under 40 CFR part 71 (part 71) will be implemented. Due to unexpected circumstances that affected states' timeliness in developing fully approvable programs, EPA extended the effective date of all interim approvals until December 1, 2001. For any state that has not received full approval from EPA by December 1, 2001, its interim approval will then expire and be immediately replaced by the federal part 71 program. All sources subject to the federal program that do not have final part 70 permits already issued to them by the state are then required to submit a part 71 permit application and the appropriate fees within one year to their respective EPA Regional offices under part 71.

2. What Is Being Addressed in This Document?

New Jersey's first version of its operating permit program substantially, but not fully, met the requirements of part 70; therefore, EPA granted the program interim approval on May 16, 1996, which became effective on June 17, 1996 (61 FR 24715). EPA identified four issues that needed correction before New Jersey would be eligible for full approval. New Jersey submitted a corrected program to EPA on May 31, 2001, which addressed each of the four deficiencies.

On October 25, 2001, EPA proposed full approval of New Jersey's title V operating permit program and provided the public a period of 30 days to submit comments on EPA's proposed action (66 FR 53969). During the 30-day comment period, EPA received no comments on the proposed full approval. However, EPA finds it appropriate to clarify a

statement made in the "Nonmajor Sources Section" of the proposal. Where it was stated that "[a]n exemption not only relieves the subject sources from the permitting requirement; it also relieves them from the substantive requirements," EPA did not mean to imply that an exemption from the permitting requirement would also exempt the subject source for substantive requirements in the standard. The subject nonmajor source must check the individual standards to determine if requirements other than the need to obtain a part 70 permit apply to it. This document finalizes EPA's action on the proposal.

3. What Are the Program Changes That EPA Is Approving?

The details on the program changes can be found in EPA's proposed action which was published in the October 25, 2001 issue of the **Federal Register** (see 66 FR 53969). In summary, EPA approves the following changes to the New Jersey Operating Permit Rule that became effective on August 2, 1999:

- (1) N.J.A.C. 7:27-22.20(b)(7);
- (2) N.J.A.C. 7:27-22.29(a) and 22.29(e); and
- (3) N.J.A.C. 7:27-22.1.

4. What Is Involved in This Final Action?

The State of New Jersey has fulfilled the conditions of the interim approval granted on May 16, 1996. EPA is therefore taking final action to fully approve New Jersey's operating permit program. EPA is also taking final action to approve other program changes made by the State since the interim approval was granted as identified in the October 25, 2001 issue of the **Federal Register** notice (see 66 FR 53969). This final full approval has no expiration date. However, the State may revise its operating permit program as appropriate in the future by following the procedures stipulated in 40 CFR 70.4(i). EPA may also exercise its oversight authorities under section 502(i) of the Act to require changes to the State's program consistent with the procedure stipulated in 40 CFR 70.10.

In its program submittal, New Jersey did not assert jurisdiction over Indian country. To date, no tribal government in New Jersey has applied to EPA for approval to administer a title V program in Indian country within the State. On February 12, 1998, EPA promulgated regulations (40 CFR part 49) under which eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA has

promulgated regulations (40 CFR part 71) governing the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan v. EPA*, (D.C. Cir. No. 99-1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

5. What Is the Effective Date of EPA's Final Full Approval of the New Jersey Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, section 553(d) provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." APA section 553(b)(3)(B). EPA believes that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of New Jersey's program expires on December 1, 2001. In the absence of this full approval taking effect on November 30, 2001, the federal part 71 program would automatically take effect in New Jersey and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because New Jersey has been administering the title V permit program for five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially but did not fully meet the part 70 requirements, to the fully approved program is relatively minor, in

particular if compared to the changes between a state-approved program and the federal program. Finally, sources are already complying with many of the newly approved requirements as a matter of state law. Thus, there is little or no additional burden with complying with these requirements under the federally approved State program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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). This rule will be effective on November 30, 2001.

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 February 4, 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 70

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

Dated: November 28, 2001.

William J. Muszynski,
Acting Regional Administrator, Region 2.

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

PART 70—[AMENDED]

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

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

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

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

* * * * *

New Jersey

* * * * *

(c) The New Jersey Department of Environmental Protection submitted program revisions on September 17, 1999 and May 31, 2001. The rule revisions contained in the September 17, 1999 and May 31, 2001 submittals adequately addressed the conditions of the interim approval effective on June 17, 1996, and which would expire on December 1, 2001. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01-30096 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[OK-FRL-7113-7]

Clean Air Act Full Approval of Operating Permits Program; State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Operating Permit

Program of the State of Oklahoma. Oklahoma's Operating Permit Program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted interim approval to Oklahoma's Operating Permit Program on February 5, 1996 (61 FR 4220). Oklahoma revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on October 16, 2001.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the State's submittal and other supporting documentation relevant to this action are available for inspection during normal business hours at the U.S. EPA, Region 6, Air Permitting Section (6PD-R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, and the Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73102. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Stanton, Regional Title V Air Operating Permits Projects Manager, Air Permitting Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, at (214) 665-8377.

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

What is the Operating Permit Program?
Why is EPA Taking this Action?

What is Involved in this Final Action?
What is the Effective Date of EPA's Full Approval of the Oklahoma Title V program?

What is the Scope of EPA's Full Approval?

What Is the Operating Permit Program?

The CAA Amendments of 1990 required all States to develop Operating Permit Programs that met certain Federal criteria. In implementing the Operating Permit Programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the Operating Permit Program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility into a single

document, the source, the public, and the regulators can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as serious, major sources include those with the potential of emitting 50 tons per year or more of VOCs.

Why Is EPA Taking This Action?

Where an Operating Permit Program substantially, but not fully met the criteria outlined in the implementing regulations codified at 40 CFR part 70, EPA granted interim approval contingent on the State revising its program to correct the deficiencies. Because Oklahoma's Operating Permit Program substantially, but not fully met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on February 5, 1996 (61 FR 4220). Interim approval of Oklahoma's program expires on December 1, 2001.

What Is Involved in This Final Action?

The Oklahoma Department of Environmental Quality (ODEQ) has fulfilled the conditions of interim approval granted on February 5, 1996. On October 16, 2001, EPA published a document in the **Federal Register** (66 FR 52562) proposing full approval of Oklahoma's title V Operating Permits Program, and proposing approval of certain other program revisions. The EPA received comments from one person during the comment period that ran from October 16, 2001, until November 15, 2001. Two of the comments agreed with EPA that the deficiencies for the first, second, and

fourth conditions (transition schedule for permit issuance, major source definition, and permit language content) for full approval have been corrected. The remainder of the comments disagreed with EPA's position, and are set forth below.

1. Oklahoma Administrative Code/Tracking Part 70 Language

The first adverse comment was a general comment that Oklahoma should amend its operating permits regulations so that the language tracks the language in 40 CFR part 70. The commenter contends that Oklahoma's regulations must track the language of 40 CFR part 70 to retain the effect and intent of the Clean Air Act. Otherwise, according to the commenter, EPA is put in the position of trying to renegotiate the Clean Air Act.

EPA does not concur with the comment. Part 70 provides for the establishment of a comprehensive State air quality permitting program consistent with the requirements of title V of the Clean Air Act. 40 CFR 70.1(a). The state's program does not have to exactly track the language in part 70, but it must be consistent with it. 40 CFR 70.1(c). This allows for flexibility by the State to adopt the regulations to fit its needs while maintaining national consistency. The EPA has determined that Oklahoma's program is consistent with part 70 with the exception of the minor issues outlined in the Notice of Deficiency located elsewhere in this **Federal Register**.

2. Insignificant Activities List

The second adverse comment questioned why the insignificant activities definition in Oklahoma's rule and the approved list of insignificant activities in Appendix I of Subchapter 8 remain as a part of the Oklahoma Administrative Code if the EPA is not approving the list. The commenter questioned whether EPA has the authority to approve the list and whether the regulation tracks the language of 40 CFR part 70.

The authority to approve an insignificant activities list is found at 40 CFR 70.5(c), which states that "the Administrator may approve as a part of the State program a list of insignificant activities and emissions levels which need not be included in permit applications." As EPA stated in the **Federal Register** when it granted final interim approval to Oklahoma, "even though insignificant activities are not a required element of a part 70 program, a State that opts to establish such activities must nevertheless meet certain requirements, including prior approval

by EPA.” 61 FR 4220, 4221. As EPA stated when it proposed granting full approval, the emission levels in the definition are consistent with the levels in other approved State Operating Permit Programs. Even though EPA did not approve the list of insignificant activities, the list remains a part of Oklahoma’s regulations as a matter of state law. However, it is not part of Oklahoma’s approved title V program. Therefore, EPA does not concur with this comment.

3. Judicial Review

The third adverse comment involved what the commenter characterized as the “judicial review” process, but was not related to the deficiency as outlined by EPA when we granted Oklahoma interim approval. The comment dealt with whether certain construction permits are classified as a Tier II or Tier III permit and how this affects “judicial review.” If a permit is characterized as Tier II, the commenter claims that “judicial review” is avoided because of the lack of an administrative hearing. If it is classified as a Tier III permit and a hearing is held, the commenter contends that certain regulations governing administrative hearings such as employment of the administrative law judge, declaratory ruling procedures, restricting attendance at administrative hearings in appropriate cases, and burden of proof restrict judicial review.

EPA does not agree with this comment. Judicial review in this instance refers to the ability of an individual to appeal a decision from an administrative agency to state court, not how (or whether) the state conducts an administrative hearing. Thus, the comments are not related to judicial review but instead are related to the Tier II and Tier III permit process as outlined in Oklahoma Administrative Code (OAC) Title 252, Chapter 4. The EPA is not approving this entire Chapter as a part of this action. As previously stated, EPA is not approving any provision of Subchapter 8 which relates to construction permits, or any other provision contained in the submittal which does not pertain to Title V. 66 FR at 52564. The EPA found only one issue with judicial review as it relates to the state’s Operating Permit program (no judicial review for persons who made oral comments), and that deficiency has been corrected. The EPA does not believe that these comments are relevant to any interim approval issue or to the action that EPA is taking today.

4. Enhanced New Source Review (NSR) Procedures

The fourth adverse comment states that by not defining the term “Enhanced New Source Review (NSR) procedures”, Oklahoma has effectively avoided the NSR procedures in the Clean Air Act. The commenter believes that permits which should have been subject to 40 CFR part 70 will be shielded from the NSR procedures. The commenter feels that the state should use the exact language of 40 CFR part 70 in regards to “Enhanced NSR procedures” and that Oklahoma is allowed to approve permits without using NSR procedures.

The commenter appears to believe that because Oklahoma used the undefined term “enhanced NSR procedures” in the Title V context, certain sources that would have otherwise been subject to NSR procedures will no longer be subject to those procedures. However, this is not the case. The title V program and the NSR program have different procedures and requirements. As noted in the October 16, 2001 proposed full approval, Oklahoma has deleted the term “enhanced NSR procedures” from its regulations and has instead made the commitments detailed in the proposal and discussed in paragraph 6. Thus, we will describe the issue in more general terms. Under certain conditions, a state may allow the incorporation into a part 70 permit, the requirements from preconstruction review permits authorized under an EPA-approved program through the use of the administrative permit amendment process. As provided in 70.7(d)(1)(v), the EPA approved NSR permitting program must meet procedural requirements substantially equivalent to the requirements of part 70 that would be applicable to the change if the change were subject to review as a permit modification. Thus, the procedures required by 40 CFR 70.7(d)(1)(v) for use of the administrative amendment process are in addition to the Clean Air Act’s New Source Review requirements and do not abrogate those requirements. These procedures are not related to the installation of pollution controls as stated by the commenter. The EPA does not concur with these comments.

5. Options To Address Use of Administrative Amendment Process To Incorporate Requirements From Preconstruction Permits Into the Title V Permit

In the **Federal Register**, EPA stated that it had given Oklahoma four options to address outstanding issues from the sixth and seventh interim approval

deficiencies. These options included Oklahoma either including provisions in the title V permit that meet the requirements of 40 CFR 70.7 and 70.8 (the option ultimately chosen by Oklahoma) or amending the regulation to track the language in 40 CFR 70.7(d)(1)(v). The commenter contends that the regulation should be amended so that the language tracks the language in part 70. Otherwise, according to the commenter, it opens the door to renegotiate the language of the Clean Air Act.

As set forth in response to the first comment, a State does not have to use the exact language of part 70 when promulgating its operating permits program. Therefore, we do not agree with this comment.

6. Permit Language

As stated in the **Federal Register**, EPA and Oklahoma agreed on nine conditions it would include in its permits to implement its desire to use the administrative amendment process to incorporate requirements from preconstruction permits into a title V permit. 66 FR at 52564. The commenter had several objections to these provisions. Three of these comments related to the 30 day public notice and comment period, contending that 30 days is insufficient to analyze the permit and that the public will not have another 30 day comment period when the construction permit is incorporated in the title V permit. However, this permit condition is consistent with the federal requirements outlined in 40 CFR 70.7(h)(4) which requires the permitting authority to provide at least 30 days for public comment.

The commenter also objected to the requirement that the public notice state that EPA review, EPA objection, and petitions to EPA will not be available when the preconstruction requirements are incorporated into a title V permit. However, EPA review, EPA objection, and the EPA petition process is available during the construction permit process. The purpose of requiring this language in the public notice is to put the public on notice that the time to object to the permit is during the construction permit process, not when it is incorporated into the title V permit. This procedure is authorized by 40 CFR 70.7(d)(1)(v), and thus we do not agree with this comment.

Two comments related to the criteria for determining what States are affected (*i.e.*, affected states). The federal definition of “affected states” is found at 40 CFR 70.2. Oklahoma’s definition (OAC 252:100–8–2) is consistent with the federal definition.

The commenter states that EPA review, objections, and petitions should be posted on the ODEQ and EPA web sites. There is no legal requirement to post EPA review, objections, or petitions on Oklahoma's or EPA's website. However, EPA does post title V petitions and its response to the petition on a website. These documents can be found at <http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb.htm>.

Finally, the commenter asserts that the language of 40 CFR 70.7(f) and (g) should be a part of the Oklahoma Administrative Code (OAC) and not be modified by OAC 252:100-8-7.3(a), (b), and (c). The language of 40 CFR 70.7(f) and (g) is not modified by OAC 252:100-8-7.3(a), (b), and (c). The citations to the Oklahoma Administrative Code are to the procedures for reopening permits that EPA has approved as meeting the part 70 requirements. They do not modify 40 CFR 70.7(f) and (g). If EPA reopens a permit for cause, it will use the procedures in 40 CFR 70.7(f) and (g).

7. Approval by the Governor

There were two comments relating to the Governor's approval of Oklahoma's proposed revisions to OAC 252:100-8-8, which corrected the deficiencies relating to permit review by EPA and affected states. EPA noted that the Governor must approve this regulation before it becomes effective. The commenter was concerned that the Governor would not approve these revisions. However, the Governor has approved these revisions, and Oklahoma submitted these revisions to EPA by letter dated October 19, 2001.

8. Program Deficiencies

The commenter also asserted that the issues identified as additional program deficiencies were not minor and that they should be corrected prior to full approval. The EPA stated in the October 16, 2001 notice that it would publish a notice of deficiency concerning revisions Oklahoma made to its Operating Permits Program that did not meet the requirements of part 70. These deficiencies relate to public participation, Tier I air quality applications, definitions, permit content, administrative permit amendments, minor permit modification procedures, and permit review by EPA and affected States.¹ These deficiencies were identified in a June 12, 2001 letter to Oklahoma.

However, for the reasons discussed below, we disagree that these deficiencies prohibit us from granting Oklahoma full program approval at this time.

In 1990, Congress amended the CAA, 42 U.S.C. 7401 *et seq.*, by adding title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. 7661a(i) and 7661d(b). Accordingly, title V of the CAA provides a framework for the development, submission and approval of state operating permit programs. Following the development and submission of a state program, the CAA provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *". EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternative option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: "[i]f a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)-(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: once a state corrects the specified deficiencies, then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies

existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permit program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether by virtue of correcting the deficiencies identified in the final interim approval Oklahoma is eligible at this time for full approval or whether Oklahoma must also correct any new or recently identified deficiencies as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County v. EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870-71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Oklahoma full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional problems that were recently identified. To conclude

¹ The deficiencies relating to permit review by EPA and affected states has been corrected. See Item 7 above.

otherwise would disrupt the current administration of the state program and cause further delay in Oklahoma's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of title V.

Furthermore, requiring the State to fix all of the deficiencies that were identified in the June 12, 2001 letter to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the CAA and 40 CFR 70.4(i) and 70.10 provides EPA with the authority to issue notices of deficiency ("NOD") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. The Oklahoma title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as June 12, 2001 would cause disruption and further delay in the issuance of permits to major stationary sources in Oklahoma. As explained above, we do not believe that title V requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval, but prior to being granted full approval is a NOD as discussed above. This process provides the State an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire state operating permit program. As a result, addressing newly identified problems separately from the full approval process will not cause these issues to go unaddressed. Therefore, the deficiencies EPA identified are not a barrier to granting full approval to States.

9. Comments on Pre-Construction Permit

The commenter also made several comments regarding a preconstruction permit. Since these comments do not pertain to the action proposed in the **Federal Register** notice or to Oklahoma's Operating Permits Program, EPA is not providing a response.

What Is the Effective Date of EPA's Full Approval of the Oklahoma Title V Program?

The EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B). The EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. The EPA's interim approval of Oklahoma's program expires on December 1, 2001. In the absence of the full approval of Oklahoma's program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Oklahoma and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public, and the State of Oklahoma to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Oklahoma has been administering the title V permit program for over five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program, which substantially but not fully met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-approved program and the Federal program.

What Is the Scope of EPA's Full Approval?

In its program submission, Oklahoma did not assert jurisdiction over Indian country. To date, no tribal government in Oklahoma has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V

program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan v. EPA*, (D.C. Cir. No. 99-1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The

rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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). This rule will be effective on November 30, 2001.

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 February 4, 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 70

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

Authority: 42 U.S.C. 7401-7671q.

Dated November 29, 2001.

Lawrence E. Starfield,
Acting Deputy Regional Administrator,
Region 6.

For the reasons set out in the preamble, Appendix A of part 70 is amended as follows:

PART 70—[AMENDED]

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

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

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

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

* * * * *

Oklahoma

* * * * *

(b) The Oklahoma Department of Environmental Quality submitted program revisions on July 27, 1998. The rule revisions adequately addressed the conditions of the interim approval effective on March 6, 1996, and which will expire on December 1, 2001. The State is hereby granted final approval effective on November 30, 2001.

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[FR Doc. 01-30149 Filed 12-4-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ062-OPP; FRL-7113-4]

Clean Air Act Full Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, AZ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits programs submitted by the State of Arizona (collectively "the Arizona programs") on behalf of the Arizona Department of Environmental Quality ("ADEQ" or "State"), Maricopa County Environmental Services Department ("MCESD" or "Maricopa"), and Pima County Department of Environmental Quality, Arizona ("PDEQ" or "Pima"). The Arizona programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On October 30, 1996, EPA granted interim approval to the ADEQ, MCESD and PDEQ operating permits programs. These agencies revised their programs to satisfy the conditions of the interim approval, and EPA proposed full approval of the ADEQ, MCESD, and PDEQ programs in the **Federal Register** on October 2, 2001, October 18, 2001, and September 10, 2001, respectively. EPA received three comments on our proposed full approval of the ADEQ program and one comment on the Maricopa program. EPA's responses are included in Section II of this action.

This action promulgates final full approval of the ADEQ, MCESD and PDEQ operating permits programs.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the ADEQ, MCESD, and PDEQ submittals and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. You may also see copies of the submitted title V programs for each of the respective agencies at the following locations:

- (1) ADEQ—Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012-2809.
- (2) MCESD—Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, Arizona 85004.
- (3) PDEQ—Pima County Department of Environmental Quality, 130 West Congress Street, Tucson, Arizona 85701

FOR FURTHER INFORMATION CONTACT:

Emmanuelle Rapicavoli, EPA Region 9, at 415-972-3969 or rapicavoli.emmanuelle@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

- I. Background on the ADEQ, MCESD, and PDEQ Operating permits program
- II. Comments received by EPA on our proposed rulemaking and EPA's responses
- III. EPA's final action.

I. Background on the ADEQ, MCESD, and PDEQ Operating Permits Programs

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. The ADEQ, MCESD, and PDEQ operating permits programs were submitted in response to this directive. Because the Arizona programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the programs in a rulemaking published on October 30, 1996. See 61 FR 55910. The interim approval notice described the conditions that had to be met in order for the Arizona programs to receive full approval.

The State, Maricopa and Pima revised their title V programs to address the conditions of the interim approval. EPA promulgated proposals to approve the ADEQ, MCESD, and PDEQ programs on October 2, 2001 (66 FR 50136), October 18, 2001 (66 FR 52882), and September 10, 2001 (66 FR 46972), respectively.

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received three comment letters on our proposed full approval of the ADEQ program and one comment letter on the Maricopa program. With one exception, all of the comment letters focused exclusively on the need to revise the major source definition in Part 70. EPA published a final rule addressing this issue on November 27, 2001 and therefore EPA is not

responding to those comments. EPA's response to the remaining comments on the ADEQ program, submitted by The Arizona Center for Law in the Public Interest (ACLPI), is set out below.

1. Excess Emissions Provision

ACLPI objects to language in R18-2-310 that establishes an affirmative defense for violations occurring during startup and shutdown. EPA has proposed to approve the removal of R18-2-310 from the title V program:

In addition to proposing to approve the rules listed in Table 1, EPA is also proposing to approve the removal of R18-2-310, Excess Emissions, from the State's title V program.

See 66 FR 50138, October 2, 2001. Therefore, EPA construes ACLPI's comment as supporting its proposed action.

2. Reference Test Methods and Credible Evidence

ACLPI contends that ADEQ's title V permits routinely require only specific test methods and do not allow for additional credible evidence to be presented to prove, or disprove, an alleged violation. They state that the State's operating permit program does not appear to include EPA's credible evidence rule. ACLPI concludes that, before Arizona's title V program is fully approved, ADEQ must make the necessary changes to include the Credible Evidence Rule.

EPA agrees with the commenter's point that state implementation plans and permits should not bar the use of credible evidence for determining whether a source is in compliance. We disagree, however, with the commenter's suggestion that a permit condition that requires a source to monitor in accordance with a specific method bars the use of additional credible evidence in determining compliance.

The preamble to EPA's Credible Evidence Revisions states that the "regulation merely removes [from 40 CFR parts 51, 52, 60 and 61] what some have construed to be a regulatory bar to the admission of non-reference test data to prove a violation of an emission standard." See 62 FR 8315, February 24, 1997. One aspect of EPA's review of title V programs and permits includes a determination that no bars to enforcement are included. For example, EPA would consider language such as "compliance shall be determined by test method X" as problematic. Contrary to ACLPI's position, neither the CAA nor EPA's regulations require part 70 programs or permits to include specific references to credible evidence. The

presumption is that, absent language precluding its use, credible evidence can be used. ACLPI argues, for example, that the North Star Steel draft permit requires that the permittee shall perform initial and annual performance tests to determine opacity using EPA Method 9. ACLPI suggests that this condition bars the use of credible evidence to prove or disprove an alleged violation. EPA disagrees. Permits must impose monitoring requirements on sources and, in order to be effective, must specify the type of monitoring a source must undertake. See 40 CFR 70.6(a)(3). The language in the draft North Star Steel permit does not bar the use of other credible evidence. It merely sets out the source's monitoring obligations. EPA understands that ADEQ shares our interpretation.

3. Arizona's Confidentiality Provision

ACLPI commented that Arizona's operating permits program is not approvable because it does not adequately satisfy federal standards and that A.R.S. 49-432 must be amended to accommodate the public's right to have access to information. The opportunity for public comment on EPA's proposed action to grant full approval of the ADEQ program was limited to the issue of whether ADEQ corrected the items EPA had identified as program deficiencies during the interim approval process. Thus, EPA's proposal to grant full approval did not include ADEQ's confidentiality provisions, which EPA had previously approved as part of ADEQ's program. See 61 FR 55915, October 30, 1996. The comment is therefore beyond the scope of this rulemaking. However, EPA will be responding to this same comment, which was also raised by ACLPI during the 90-day public comment period, under separate cover by December 14, 2001.

4. Definition of Major Source

ACLPI comments that EPA cannot lawfully approve Arizona's major source definition unless EPA completes the rulemaking process that will change the definition in part 70. EPA agrees with ACLPI and in fact took that position in the notice proposing full approval of ADEQ's program. We stated that our full approval of the ADEQ program was contingent on EPA finalizing changes to the major source definition that would result in ADEQ's major source definition being consistent with part 70. See 66 FR 50138, October 2, 2001. EPA finalized these changes in a rule signed by the Administrator on November 19, 2001, and published in the **Federal**

Register on November 27, 2001 (See 66 FR 59161).

5. Fugitive Emissions From Agricultural Equipment

ACLPI states that there is no legitimate reason to exclude agricultural equipment from regulation under title V and therefore, EPA cannot fully approve Arizona's title V program until A.R.S. § 49-426(B) is amended to require that agricultural sources count fugitive emissions.

Arizona's program does not exclude agricultural equipment from regulation under title V. As noted in EPA's notice granting interim approval of ADEQ's title V program, the Arizona Attorney General submitted an opinion that the legislature in no way sought to exempt any major sources when it granted an exemption to agricultural equipment used in normal farm operations. The opinion went on to state that this was clarified by AAC R18-2-302(c)(3), which provides that agricultural equipment used in normal farm operations does not include equipment that requires a permit under title V or is subject to a standard under 40 CFR parts 60 or 61. EPA deferred to that opinion, but noted that if there is a successful legal challenge to the ADEQ's regulation, we would revisit this portion of the program approval. See 61 FR 55915, October 30, 1996.

Part 70 currently requires that fugitive emissions generated by sources that are subject to a standard promulgated under section 111 or 112 of the Clean Air Act must be included when determining whether a source is major. Sources are also required to count all fugitive emissions of hazardous air pollutants. Under part 70, fugitive emissions from any agricultural equipment regulated by such standards or that emits hazardous air pollutants must count towards the major source threshold. ADEQ's rules are consistent with this approach.

After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Arizona operating permits program.

III. EPA's Final Action

A. Full Approval of Operating Permit Programs

EPA is granting full approval to the operating permits programs submitted by ADEQ, MCESD, and, Pima based on the revisions submitted for ADEQ on August 11, 1998, May 9, 2001, and September 7, 2001, for MCESD on September 7, 2001, and for PDEQ on May 28, 1998 and November 9, 2001, which satisfactorily address the program deficiencies identified in EPA's October 30, 1996 interim approval (61 FR 55910). EPA is also approving, as title V operating permits program revisions, additional changes made to the Arizona programs. These deficiency corrections and additional program revisions are described in detail in the **Federal Register** notices proposing full approval of the Arizona programs and their accompanying technical support documents.

In our proposed approvals of the Arizona programs, we noted that ADEQ, MCESD, and PDEQ had revised their major source definition in anticipation of EPA finalizing a previously proposed change (59 FR 44460; August 29, 1994) to the major source definition in part 70. Paragraph (c) of Arizona programs' definition of major source lists source categories that must count fugitives. Subparagraph (xxvii) has been modified to read: "All other stationary source categories regulated by a standard promulgated as of August 7, 1980 under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category." Emphasis added. The addition of this 1980 cutoff date restricts the types of sources that are required to count fugitives towards the major source threshold. At the time of our proposed full approvals this change was inconsistent with part 70. Because EPA's proposed revision to the major source definition would incorporate the 1980 cutoff date we proposed to approve the ADEQ, MCESD, and PDEQ definition of major source contingent on EPA finalizing our proposed change to part 70.

On November 19, 2001, the Administrator signed a rulemaking package that finalized EPA's change to paragraph (2)(xvii) of the part 70 definition of major source. The revised paragraph now reads, "(xvii) Any other stationary source category, which as of August 7, 1980 is being regulated by a standard promulgated under section 111 or 112 of the Act." This change means that part 70 no longer requires states to provide that sources in categories subject to standards under sections 111 or 112 promulgated after August 7, 1980 must include fugitive emissions in determining major source status under section 302 or part D of title I of the Clean Air Act. As a consequence of this change to part 70, the definition of major source in the Arizona programs is no longer inconsistent with part 70 and is now fully approvable.

In addition to the above described change, EPA has deleted the phrase "but only with respect to those air pollutants that have been regulated for that category" from paragraph (c)(xvii) of the part 70 definition of major source. EPA proposed to delete this phrase in its 1995 supplemental proposal to revise part 70. See 60 FR 45530, August 31, 1995. States, including the Arizona agencies, must revise their part 70 programs accordingly, and submit the revision to EPA within 12 months of the date of publication of the final rule. If a state can demonstrate that additional legal authority is needed, the deadline for submittal of a revised program can be extended to 24 months after EPA's rule is published.

For more details on these changes to the part 70 major source definition, please see the notice signed by the Administrator on November 19, 2001 and published in the **Federal Register** on November 27, 2001 (See 66 FR 59161). Interested parties can download the final rule from EPA's website on the Internet under recent actions at the following address: <http://www.epa.gov/ttn.oarpg/ramain.html>.

The rules for which we are granting full approval are listed in the tables below.

TABLE 1.—ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule No.	Rule title and specific sections being approved	Effective	Submitted
R18-2-101 (61)	Definitions—definition of "Major source" only	6/4/98	8/11/98
R18-2-304	Permit application processing procedures	12/20/99	5/9/01
R18-2-306	Permit contents	6/4/98	8/11/98
R18-2-320	Significant Permit Revisions	12/20/99	5/9/01
R18-2-331	Material Permit Conditions	6/4/98	8/11/98

In addition to proposing to approving the rules listed in Table 1, EPA is also removing R18-2-310, Excess Emissions, from the State's title V program.

TABLE 2.—MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT

Rule No.	Rule title and specific sections proposed for approval	Adopted	Submitted
Regulation I, Rule 100	General Provisions and Definitions <ul style="list-style-type: none"> • The following provisions from §200, Definitions: §200.26 "Building, Structure, Facility, or Installation" §200.58 "Insignificant Activity" §200.60 "Major Source" §200.107 "Trade Secret" §200.108 "Trivial Activity" • §402, Confidentiality of Information • §500 Monitoring of Records 	8/22/01	9/7/01
Regulation I, Rule 130	Emergency Provisions	7/26/00	9/7/01
Regulation II, Rule 200	Permit Requirements <ul style="list-style-type: none"> • §308—Standards for Applications • §312—Transition from Installation and Operating Permit Program to Unitary Permit Program 	8/22/01	9/7/01
Regulation II, Rule 210	Title V Permit Provisions <ul style="list-style-type: none"> • §301.4(h) • §302.1(j) • §302.1(n) • §404—Administrative Permit Amendments • §405.1 • §408—Public Participation 	2/7/01	9/7/01
Appendix D	List of Insignificant Activities	8/22/01	9/7/01
Appendix E	List of Trivial Activities	8/22/01	9/7/01

TABLE 3.—PIMA DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule No.	Rule title and specific sections being approved	Adopted	Submitted
17.04.340.A. (122)	Words, phrases, and terms—definition of "Major source" only	9/11/01	11/9/01
17.04.340.A. (109)	Words, phrases, and terms—definition of "Insignificant activity" only	4/7/98	5/28/98
17.12.150	Transition from installation and operating permit program to unitary permit program.	9/11/01	11/9/01
17.12.160	Permit application processing procedures	4/7/98	5/28/98
17.12.180	Permit contents	4/7/98	5/28/98
17.12.345	Public notification	4/7/98	5/28/98

B. Effective Date of Full Approval

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the Arizona programs effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the Arizona programs to take effect before December 1, 2001. EPA's interim approval of the Arizona programs expires on December 1, 2001. In the absence of this full approval of Arizona's amended programs taking effect on November 30, the federal program under 40 CFR part 71 would

automatically take effect in Arizona and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public, ADEQ, MCESD, and PCDEQ to avoid any gap in coverage of the Arizona program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because ADEQ, MCESD, and PCDEQ have been administering the title V permit program for 5 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

C. Scope of the Full Approval

In their program submissions, neither ADEQ, Maricopa County nor Pima County asserted jurisdiction over Indian country. To date, no tribal government in Arizona has applied to

EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan v. EPA*, (D.C. Cir. No. 99-1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

D. Public Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently

challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

Two groups submitted comments on what they believe to be deficiencies with respect to the Arizona, Maricopa County and Pima County Title V programs. As stated in the **Federal Register** notice published on October 2, 2001 (66 FR 50136), October 18, 2001 (66 FR 52882), and September 10, 2001 (66 FR 46972) proposing to fully approve Arizona, Maricopa County and Pima County operating permit programs respectively, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not

contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective on November 30, 2001.

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 February 4, 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 70

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

Dated: November 28, 2001.

Wayne Nastri,

Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

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

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

2. Appendix A to part 70 is amended by revising paragraphs (a) and (b), and adding paragraph (c)(3) under Arizona to read as follows:

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

* * * * *

Arizona

(a) Arizona Department of Environmental Quality:

(1) Submitted on November 15, 1993 and amended on March 14, 1994; May 17, 1994; March 20, 1995; May 4, 1995; July 22, 1996; and August 12, 1996; interim approval effective on November 29, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on August 11, 1998, May 9, 2001 and September 7, 2001. Full approval is effective on November 30, 2001.

(b) Maricopa County Environmental Services Department:

(1) Submitted on November 15, 1993 and amended on December 15, 1993; January 13, 1994; March 9, 1994; and March 21, 1995; July 22, 1996; and August 12, 1996; interim approval effective on November 29, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on September 7, 2001. Full approval is effective on November 30, 2001.

(c) * * *
 (3) Revisions submitted on May 30, 1998 and November 9, 2001. Full approval is effective on November 30, 2001.

* * * * *

[FR Doc. 01-30148 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NY002; FRL-7113-3]

Clean Air Act Final Full Approval of Operating Permit Program; State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating final full approval of the operating permit program submitted by the State of New York in accordance with Title V of the Clean Air Act (the Act) and its implementing regulations codified. This approved program allows New York to issue federally enforceable operating permits to all major stationary sources

and to certain other sources within the State's jurisdiction. However, because certain of the regulations are emergency rules that will expire on December 21, 2001, unless extended, EPA is approving this program only until the expiration date of the emergency rules. EPA has proposed approval of permanent rules that are substantively the same as the emergency rules and the State expects to submit those rules in final adopted form shortly. Once these rules become effective, EPA will promulgate another final program approval to replace this action. In the interim, the emergency rules will still be in effect and, therefore, New York will still have a fully approved program. If EPA has not approved the State's revised permanent rules before the emergency rules expire, New York's title V permit program will expire and the federal program will automatically apply. If New York's emergency rules expire as discussed above and a federal program under part 71 takes effect in the state, EPA will provide notice to the public within two weeks of the effective date of the federal program in a subsequent **Federal Register** document. Because EPA received adverse comments on the proposed action published in the October 25, 2001 **Federal Register** (66 FR 53966), this action responds to those comments.

EFFECTIVE DATE: November 30, 2001.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing this final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866.

FOR FURTHER INFORMATION CONTACT: Steven C. Riva, Chief, Permitting Section, Air Programs Branch, at the above EPA office in New York or at telephone number (212) 637-4074.

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

1. What is the operating permit program?
2. What is being addressed in this document?
3. What were the concerns raised by the commenters?
4. What is the public's role in identifying program deficiencies?
5. What are the program changes that EPA is approving?
6. What is involved in this final action?
7. What is the scope of EPA's full approval?
8. What is the effective date of EPA's final full approval of the State of New York title V program?

1. What Is the Operating Permit Program?

Title V of the Clean Air Act (the Act) and its implementing regulations at 40 CFR part 70 (part 70) direct all states to develop and implement operating permit programs that meet certain criteria. Operating permit programs are intended to consolidate into single federally enforceable documents all requirements of the Act that apply to individual sources. This consolidation of all of the applicable requirements for a source enables the source, the public, and permitting authorities to more easily determine what requirements of the Act apply and whether the source is complying with them. Sources required to obtain operating permits include "major" sources of air pollution and certain other sources specified in section 501 of the Act and in EPA's regulations at 40 CFR 70.3.

The EPA reviews state programs pursuant to title V of the Act and part 70, which outline the criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval which would be effective for two years. If a state does not have in place a fully approved program by the time the interim approval expires, the federal operating permit program under 40 CFR part 71 (part 71) will automatically take effect. Due to unexpected circumstances that affected states' timeliness in developing fully approvable programs, EPA extended the effective date of all interim approvals until December 1, 2001. For any state that has not received full approval from EPA by December 1, 2001, its interim approval will then expire and be immediately replaced by the federal part 71 program. All sources subject to the federal program that do not have final part 70 permits already issued to them by the state will be required to submit a part 71 permit application and the appropriate fees within one year to their respective EPA Regional offices under part 71.

2. What Is Being Addressed in This Document?

New York State's first version of its operating permit program substantially, but not fully, met the requirements of part 70; therefore, EPA granted interim program approval on November 7, 1996, which became effective on December 9, 1996 (61 FR 57589). In the interim approval rulemaking EPA identified eight issues that needed correction before New York would be eligible for final full approval. New York State submitted a corrected program to EPA

on June 8, 1998, which addressed three of the deficiencies. The State submitted a second corrected program to EPA on October 5, 2001, which addressed three additional deficiencies. The latter three corrections were submitted in final form as emergency rules, which will expire on December 21, 2001, unless extended. At the same time, New York submitted proposed permanent rules (which were identical to the emergency rules) which will replace the emergency rules, and which the State is currently in the process of adopting. The State will submit the permanent rules shortly after the completion of the State's public comment process, and before the expiration of the emergency rules.

As discussed in the proposed approval notice (66 FR 53966), EPA no longer considers the remaining two issues to be deficiencies. First, because New York State affords more time than part 70 requires for citizens to file a petition for judicial review, this issue is not considered to be a program deficiency. The second issue related to the definition of "major source." EPA recently promulgated regulations revising the definition of major source, which is now consistent with the definition included in the New York State operating permit program. As such, there is no longer a program deficiency with respect to this definition.

On October 25, 2001, EPA proposed full approval of New York State's title V operating permit program and provided the public a period of 30 days to submit comments on EPA's proposed action (66 FR 53966). The proposed approval concerned the three permanent rules submitted on June 8, 1998 (effective on June 26, 1998) as well as the emergency and draft permanent rules submitted on October 5, 2001. During the 30-day comment period, EPA received one comment letter dated November 23, 2001, from the New York Public Interest Research Group (NYPIRG). The comments contained in that letter are addressed below.

3. What Were the Concerns Raised by the Commenters?

On November 23, 2001, we received a comment letter from NYPIRG on the proposed full approval of the New York program. In this notice, we are only addressing the comments which relate to our determination that New York has corrected the interim approval deficiencies in its title V program. Most of the comments submitted by NYPIRG are outside the scope of this action because they do not address the interim approval deficiencies and the subsequent correction of these

deficiencies. Some of these issues have been raised previously by NYPIRG, either in its April 13, 1999 petition on the New York State Title V program, in subsequent facility specific petitions, or in its March 11, 2001 letter submitted in response to EPA's December 2000 notice.

Of the remaining comments, four are new allegations of deficiencies in the New York State Title V program. That is, these allegations were not submitted in response to EPA's December 2000 notice that alerted the public to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in state operating permit programs. These four comments are also outside of the scope of the eight issues identified by EPA in the November 7, 1996 **Federal Register** notice granting interim program approval to New York State. Nonetheless, EPA will investigate these allegations to ascertain whether they constitute a deficiency in the New York State's Title V program, and EPA will respond appropriately.

In its comment letter, NYPIRG challenged our ability to proceed with full approval of New York's program when, according to the comment, the program does not clearly conform to the requirements of part 70.

EPA is aware that issues other than those listed in the November 7, 1996, interim approval may exist in the New York program. EPA agrees that these issues must be addressed. For the reasons discussed below, however, we disagree that newly identified deficiencies that may exist prohibit us from granting New York full program approval at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 to 7671q ("CAA" or "Act"), by adding title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. §§ 7661a(i) and 7661d(b). Accordingly, Title V of the CAA provides a framework for the development, submission and approval of state operating permit programs. Following the development and submission of a state program, the Act provides two different approval options

that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements of the Act * * *." EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternate option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: "If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of Title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)-(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a state corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permit program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternately, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether New York by virtue of correcting the deficiencies identified in the final interim approval is eligible at this time for full approval, or whether New York must also correct any new or recently identified deficiencies that may exist as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another.

See *Citizens to Save Spencer County v. EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. See *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in Title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permit programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant New York full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional problems that were recently identified. To conclude otherwise would disrupt the current administration of the state program and cause further delay in the state's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of Title V.

Furthermore, requiring the State to fix all of the deficiencies that may exist and that have been recently identified prior to receiving full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provide EPA with the authority to issue notices of deficiency ("NOD") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, in its NOD EPA will specify a reasonable time frame for the permitting authority to correct the identified deficiency. The

New York Title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues that may exist prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as March 2001 will cause disruption and further delay in the issuance of permits to major stationary sources in New York. As explained above, we do not believe that Title V requires such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. This process provides the State an adequate amount of time after such findings to implement any necessary changes without unduly disrupting the entire state operating permit program. As a result, addressing newly identified problems separately from the full approval process will not cause these issues to go unaddressed. Moreover, proceeding in this manner allows for a more rational and orderly method for addressing new issues as they arise.

In addition, NYPIRG submitted one comment that directly relates to New York's full program approval process. This comment relates to the definition of "major source." NYPIRG commented that EPA can only grant full approval if a program complies with part 70 as it exists on the date of full program approval. That is, approval cannot be based on a determination that a program complies with proposed regulations. EPA agrees. The decision to grant full approval is based on the fact that the definition of major source in New York State's program is now consistent with the definition in part 70. In EPA's proposed approval of the New York State program, it was noted that the agency had proposed revisions to part 70 relative to the major source definition that, when finalized, would be consistent with the definition in New York's rules. New York's definition of major source, which lists source categories that must include fugitive emissions in determining major source status reads, in part: "All other source categories regulated by a standard under Sections 111, for which EPA has completed a rulemaking proceeding under 302(j) of the Act or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category as of the effective date of this Part." On November 27, 2001, the

Agency published in the **Federal Register** a rule that finalized EPA's change to paragraph (2)(xvii) of the part 70 definition of major source. See 66 FR 59161, November 27, 2001. The revised paragraph now reads, "(xvii) Any other stationary source category, which as of August 7, 1980 is being regulated by a standard promulgated under section 111 or 112 of the Act." This change means that part 70 no longer requires states to provide that sources in categories subject to standards under sections 111 or 112 promulgated after August 7, 1980 must include fugitive emissions in determining major source status under section 302 or part D of title I of the Act. The definition of major source in the New York program is now consistent with part 70. Although the New York definition is different than the EPA definition, the State's definition covers at least the same source categories as part 70 (as revised) and, therefore, it is now fully approvable.

In addition to the above described change, EPA has deleted the phrase "but only with respect to those air pollutants that have been regulated for that category" from paragraph (c)(xvii) of the part 70 definition of major source. EPA proposed to delete this phrase in its 1995 supplemental proposal to revise part 70. See 60 FR 45530, August 31, 1995. States, including New York, must revise their part 70 programs accordingly, and submit the revision to EPA within 12 months of the date of publication of the final rule. If a state can demonstrate that additional legal authority is needed, the deadline for submittal of a revised program can be extended to 24 months after EPA's rule is published.

4. What Is the Public's Role in Identifying Program Deficiencies?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permit programs until December 1, 2001. (65 FR 32035). The action was subsequently challenged by the Sierra Club and NYPIRG. In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice. EPA published that notice on December 11, 2000. (65 FR 77276).

Several citizens commented on what they believe to be deficiencies with respect to the New York State Title V

program. As stated in the **Federal Register** notice published on October 25, 2001 proposing to fully approve New York State's operating permit program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001, to timely public comments on programs that had obtained interim approval, and by April 1, 2002, to timely comments on fully approved programs. EPA will publish a notice of deficiency (NOD) when it is determined that a deficiency exists, or EPA will notify the commenter in writing to explain the agency's reasons for not making a finding of deficiency. In addition, EPA will publish a notice of availability in the **Federal Register** notifying the public that the agency has responded in writing to these comments and how the public may obtain a copy of such a response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that EPA has identified through its program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

5. What Are the Program Changes That EPA Is Approving?

The details on the program changes can be found in EPA's proposed action which was published in the October 25, 2001 issue of the **Federal Register** (see 66 FR 53966). In summary, EPA approves the three rule revisions that became effective on June 26, 1998, and the three other rule revisions that were promulgated pursuant to emergency rulemaking on September 21, 2001.

6. What Is Involved in This Final Action?

The State of New York has adequately fulfilled the conditions of the interim approval promulgated on November 7, 1996. EPA is therefore taking final action to fully approve New York State's operating permit program as revised by the three permanent rules submitted on June 8, 1998 and the three emergency rules submitted on October 5, 2000. However, as previously discussed, since the emergency rules expire on December 21, 2001, unless extended, this final full approval will expire if EPA has not approved the State's revised permanent rules before the emergency rules expire. New York State has commenced a separate rulemaking proposal (that is, the "normal" rulemaking process utilized in the State of New York, including the opportunity for public participation), containing the identical regulatory changes. The permanent rules will replace the "emergency" rules

once the rulemaking proposal is finalized. Today's approval, however, is contingent upon the final permanent rules being substantively the same as the draft rules on which EPA proposed this action and which were the same as the emergency rules that are already in effect. Once these permanent rules become effective, EPA will promulgate another final program approval to replace this action. In the interim, the emergency rules will still be in effect and, therefore, New York will still have a fully approved program. If the State of New York fails to adopt rules that are effective before expiration of the emergency rules, then the New York State operating permit program will expire and the federal part 71 program will automatically take effect. As previously discussed, if necessary, EPA will publish a notice in the **Federal Register** within two weeks of the effective date of the federal program.

New York State may revise its operating permit program as appropriate in the future by following the procedures stipulated in 40 CFR 70.4(i). EPA may also exercise its oversight authorities under section 502(i) of the Act to require changes to the State's program consistent with the procedure stipulated in 40 CFR 70.10.

7. What Is the Scope of EPA's Full Approval?

In its program submittal, New York State did not assert jurisdiction over Indian country. To date, no tribal government in New York has applied to EPA for approval to administer a title V program in Indian country within the State. On February 12, 1998, EPA promulgated regulations (40 CFR part 49) under which eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA has promulgated regulations (40 CFR part 71) governing the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan v. EPA*, (D.C. Cir. No. 99-1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

8. What Is the Effective Date of EPA's Final Full Approval of the State of New York Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the State's program effective on November 30, 2001. In relevant part, section 553(d) provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—* * * (3) as otherwise provided by the agency for good cause found and published with the rule." Good cause may be supported by an agency determination that a delay in the effective date is "impracticable, unnecessary, or contrary to the public interest." APA section 553(b)(3)(B). EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of New York State's program expires on December 1, 2001. In the absence of this full approval taking effect on November 30, the federal part 71 program would automatically take effect in New York State and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State to avoid any gap in coverage of the State program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because New York has been administering the title V permit program for five years under an interim approval. Through this action, EPA is approving revisions to the existing and currently operational program. The change from the interim approved program which substantially but did not fully meet the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-approved program and the federal program. Finally, sources are already complying with many of the newly approved requirements as a matter of state law. Thus, there is little or no additional burden with complying with these requirements under the federally approved State program.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and

Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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). This rule will be effective on November 30, 2001.

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 February 4, 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 70

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

Dated: November 29, 2001.
William J. Muszynski,
Acting Regional Administrator, Region 2.

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

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

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

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

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

* * * * *
New York
 * * * * *

(c) The New York State Department of Environmental Conservation submitted program revisions on June 8, 1998 and October 5, 2001. The rule revisions contained in the June 8, 1998 and October 5, 2001 submittals adequately addressed the conditions of the interim approval effective on December 9, 1996, and which would expire on December 1, 2001. The October 5, 2001 submission consists of rules adopted pursuant to New York's emergency rulemaking procedures. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01-30144 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70
[FRL-7113-9]

Clean Air Act Full Approval of Operating Permits Program in Alaska

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program submitted by the State of Alaska. Alaska's operating permits program was submitted in response to the directive in the 1990 Clean Air Act Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction.

DATES: Effective November 30, 2001.
ADDRESSES: Copies of the State of Alaska's submittal and other supporting

information used in developing this final, full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Denise Baker, EPA, Region 10, Office of Air Quality (OAQ-107), 1200 6th Avenue, Seattle, WA 98101, (206) 553-8087.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) Amendments of 1990 require all state and local permitting authorities to develop operating permits programs that meet certain Federal criteria. The State of Alaska submitted a program in response to this directive. EPA granted interim approval to Alaska's air operating permits program on December 5, 1996, (61 FR 64463). The interim approval notice identified 19 remaining conditions that Alaska must meet in order to receive full approval of its Title V operating permits program.

After Alaska revised its operating permits program to address the conditions of the interim approval, EPA promulgated a proposal to approve Alaska's Title V operating permits program on July 26, 2001, (66 FR 38966). At the same time, because EPA viewed the proposal as a noncontroversial action and did not anticipate adverse public comment on the proposal, EPA also published a direct final rule approving the Alaska operating permits program (66 FR 38940). EPA received one adverse public comment on the proposal. Therefore, EPA removed the direct final approval on September 20, 2001, (66 FR 48357). After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Alaska operating permits program.

II. What Is the Effective Date of EPA's Full Approval of Alaska's Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the state's program effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date,

except— * * * (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of Alaska's prior program expires on December 1, 2001. In the absence of this full approval of Alaska's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Alaska and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State of Alaska to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Alaska has been administering the Title V permit program for nearly five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

III. Response to Comments

EPA received one comment letter in response to our July 26, 2001, (66 FR 38966) proposed approval notice for the Alaska Title V operating permits program. The commenter stated that EPA should withhold approval of Alaska's program until two issues were resolved. First, the commenter stated that "Alaska's plan is not yet in compliance with the federal Clean Air Act and its implementing regulations (40 CFR part 70)." The commenter argued that Alaska had failed to meet several Title V requirements, including the requirement to include monitoring, recordkeeping and reporting sufficient to assure compliance with and enforcement of each applicable requirement. Second, the commenter stated that "there is an ongoing review of Alaska's entire Title V program that will not be completed until December 1,

2001." The comments provided to EPA in response to our July 26, 2001, (66 FR 38966) proposed approval notice for Alaska were made by the same party and raised issues that had previously been discussed in the commenter's letter submitted on March 12, 2001, in response to 65 FR 77376 (December 11, 2000).

A. Response to Issue #1—Assertion That Alaska Is Not Yet in Compliance With Certain Requirements of the Title V Program

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs, including Alaska, until December 1, 2001 (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in Title V programs that had received interim or full approval. This notice was published on December 11, 2000 (65 FR 77376). In the notice, EPA committed to respond to the merits of any such claims of deficiency on or before December 1, 2001, for those states, such as Alaska, that have received interim approval and on or before April 1, 2002, for states that have received full approval.

As noted above, one citizen organization commented on what it believes to be deficiencies with respect to the Alaska Title V program. EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001, to timely public comments on programs that have obtained interim approval, and by April 1, 2002, to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. A NOD will not necessarily be limited to deficiencies identified by citizens, and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

For the reasons described below, EPA is not in the context of this action responding to the comments submitted after the December 11, 2000, notice that identify potential new deficiencies.

B. Response to Issue #2—Ongoing Review

The commenter referred to the ongoing review of Alaska's Title V program, and took the position that EPA should not grant full approval to Alaska's program until that review is completed. In support of this, the commenter asserted that the subject matter of the ongoing review, namely, the adequacy of the Alaska Title V program, is essentially the same as the subject matter of the proposal to fully approve the Alaska program. The commenter stated that EPA must base its decision of whether to grant full approval on the adequacy of the Alaska program as it currently exists, not as it existed at the time of interim approval. The commenter further stated that EPA must take into account any deficiency existing in the Alaska program, regardless of whether it had been identified in the granting of interim approval. According to the commenter, any other position would eviscerate EPA's oversight responsibilities.

For the reasons discussed below, we disagree that any deficiencies that may be identified following interim approval would prohibit us from granting Alaska full program approval at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 to 7671q ("CAA" or "Act"), by adding Title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including "major source[s]" and "affected source[s]," to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. 7661a(i) and 7661d(b). Accordingly, Title V of the CAA provides a framework for the development, submission and approval of state operating permits programs. Following the development and submission of a state program, the Act provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA "may approve a program to the extent that the program meets the requirements

of the Act * * *" EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternative option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: "If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval." This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of Title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to "specify the changes that must be made before the program can receive full approval." 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a state corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permits program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether Alaska, by virtue of correcting the deficiencies identified in the final interim approval, is eligible at this time for full approval, or whether Alaska must also correct any new or recently identified deficiencies that may exist, as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County v. EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining

within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in Title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permits programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Alaska full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional issues that were recently identified. To conclude otherwise would disrupt the current administration of the state program, by causing the program to transfer to administration by EPA, and would cause further delay in Alaska's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of Title V.

Furthermore, requiring the State to address the deficiencies, if there are any, that have been identified in the past year to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provides EPA with the authority to issue notices of deficiency ("NOD") whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, in its NOD EPA will specify a reasonable time frame for the permitting authority to correct any identified deficiency. The Alaska Title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues

prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as March 2001, will cause disruption and further delay in the issuance of permits to major stationary sources in Alaska. As explained, Title V does not require such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. This process provides the State an adequate amount of time after such findings to implement any necessary changes without disrupting the continuity of the state operating permits program. Addressing newly identified issues on a separate track from the granting of full approval still ensures that these issues will be addressed in due course. Rather than undermining EPA's oversight authority as the commenter suggests, proceeding in this manner allows for a more rational and orderly method for addressing new issues as they arise.

At this time, EPA has identified one concern regarding the Alaska Title V program for which it has asked the State for an immediate response. This concern relates to the rate of Title V permit issuance by Alaska. In response to EPA's request, Alaska has provided EPA with a commitment letter that includes a timeline and milestones for issuance of remaining permits. Specifically, the State has committed to issuing all outstanding Alaska Title V air operating permits on or before December 1, 2003. EPA is satisfied that this timeline for issuance of remaining permits represents reasonable progress towards issuance of all permits. Accordingly, EPA is not issuing a notice of deficiency because the State's commitment that future permits will be issued consistent with state and federal requirements addresses EPA's concern. However, it will be important to ensure that the State actually meets this commitment. EPA will monitor the State's efforts over the next two years to ensure the State is proceeding on a pace to meet the commitment and that the commitment is ultimately met.

IV. What Is the Scope of EPA's Full Approval?

In its program submission, Alaska did not assert jurisdiction over Indian country. To date, no tribal government in Alaska has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be

approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan v. EPA*, (D.C. Cir. No. 99-1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

V. Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism"

(64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permits programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permits program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permits program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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. section 804(2). This rule will be effective November 30, 2001.

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 February 4, 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 70

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

Dated: November 29, 2001.

L. John Iani,
Regional Administrator, Region 10.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

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

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

2. In appendix A to part 70, the entry for Alaska is amended by revising paragraph (a) to read as follows:

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

* * * * *

Alaska

(a) Alaska Department of Environmental Conservation: submitted on May 31, 1995, as supplemented by submittals on August 16, 1995, February 6, 1996, February 27, 1996, July 5, 1996, August 2, 1996, and October 17, 1996; interim approval effective on December 5, 1996; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01-30143 Filed 12-4-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NV 063-Pt70; FRL-7113-8]

Clean Air Act Full Approval of Title V Operating Permits Programs; Clark County Department of Air Quality Management, Washoe County District Health Department, and Nevada Division of Environmental Protection, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program of the Clark County Department of Air Quality Management ("Clark County"), the Washoe County District Health Department ("Washoe County"), and the Nevada Division of Environmental Protection ("NDEP"). These three programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to Clark County's operating permits program on July 13, 1995, to Washoe County's program on January 5, 1995, and to NDEP's program on December 12, 1995. All three permitting agencies revised their programs to satisfy the conditions of interim approval, and EPA proposed full approval in the **Federal Register** on October 10, 2001. EPA received comments on our proposed approval of Clark County's program from Mr. Robert Hall of the Nevada Environmental Coalition, and on our proposed approval of NDEP's program from NDEP. After carefully reviewing and considering the issues raised by the commenters, EPA is taking final action to give full approval to the Clark County and NDEP operating permits programs. EPA received no comments on our proposed approval of the Washoe County program and we are also granting full approval to that program in today's action.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the three program submittals and other supporting information used in developing this final full approval, including the two comment letters on our proposed approval, are available for inspection during normal business hours at the

following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: David Albright, EPA Region 9, at 415-972-3971 or at albright.david@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

- I. Background on the Clark County, Washoe County, and NDEP operating permits programs
- II. Comments received by EPA on our proposed rulemaking and EPA's responses
- III. EPA's final action
 - A. Full Approval of the Clark County, Washoe County, and NDEP Operating Permit Programs
 - B. Effective date of EPA's full approval
 - C. The scope of EPA's full approval
 - D. Citizen comment letters

I. Background on the Clark County, Washoe County, and NDEP Operating Permits Programs

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. Clark County, Washoe County, and NDEP submitted their operating permits programs in response to this directive. Because the Clark County, Washoe County, and NDEP programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to each program in three separate rulemakings, published on July 13, 1995 (60 FR 36070), January 5, 1995 (60 FR 1741), and December 12, 1995 (60 FR 63631), respectively. Each interim approval notice described the conditions that had to be met in order for the programs to receive full approval.

After Clark County, Washoe County, and NDEP revised their programs to address the conditions of interim approval, EPA proposed to approve all three title V operating permits programs on October 10, 2001 (66 FR 51620).

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received two comment letters during the public comment period. Mr. Robert Hall, Nevada Environmental Coalition, submitted a letter on November 9, 2001 commenting on our proposed approval of the Clark County program and NDEP submitted a letter on November 9, 2001 commenting on our proposed approval of the Nevada program. Copies of these letters are

included in the docket for this rulemaking maintained at the EPA Region 9 office.

A. Letter From Mr. Robert Hall, Nevada Environmental Coalition (NEC) Dated November 9, 2001

Mr. Hall, president of the NEC, raised numerous issues in his comment letter with respect to DAQM's implementation of the Clean Air Act. EPA responds below to those comments that are germane to EPA's proposal on October 10, 2001, to approve the Clark County DAQM operating permits program based upon the specific revisions made to the Clark County program addressing their interim approval deficiencies. However, many of Mr. Hall's comments relate to non-title V air permitting issues or to title V program issues that were not the subject of EPA's proposed action. Both categories of comments are beyond the scope of EPA's proposed action, which pertained specifically to whether Clark County had corrected the issues identified as deficiencies when EPA granted the program interim approval. In this notice, EPA is not responding to comments submitted by Mr. Hall that are beyond the scope of our present rulemaking. Nevertheless, many of the concerns raised by Mr. Hall are similar to issues that he raised in his comment letter submitted in response to EPA's 90-day public comment period that provided members of the public an opportunity to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs. (65 FR 77376, December 11, 2000) The 90-day comment period was made available as part of EPA's settlement of a lawsuit over EPA's extension of all title V operating permits program interim approvals. As described in section III.D of this notice, EPA expects to respond in writing to Mr. Hall's earlier comments by December 14, 2001.

Set out below are the relevant issues raised by Mr. Hall in his comment letter and EPA's responses to the issues.

1. Program Submittal by the Clark County Department of Air Quality Management

Mr. Hall argues that because the title V program interim approval was originally granted to the Clark County Health District and revisions to the interim approved program were submitted by the Health District, EPA cannot grant full approval of the title V program to the Clark County Department of Air Quality Management. Mr. Hall contends that the Clark County program submittal is legally insufficient unless the revised program is re-written

and re-submitted in the name of the Clark County Department of Air Quality Management.

As EPA noted in our proposed approval of the Clark County title V program (66 FR 51620, October 10, 2001), on August 7, 2001, the Governor of Nevada officially transferred responsibility for air quality management in Clark County from the County's Health District to the newly created Department of Air Quality Management, overseen by the Board of County Commissioners of Clark County. In a letter dated June 21, 2001 to the Clark County Commission, Governor Guinn designates "the Board of County Commissioners as the regulatory, enforcement and permitting authority for implementing applicable provisions of the federal Clean Air Act, any amendments to that Act, and any regulations adopted pursuant to that Act within Clark County." The change is essentially a shift in the organizational location of the County's air quality management program and all rules, regulations, and policies of the Health District that comprise Clark County's title V operating permits program were carried over to the new Department, pursuant to the Governor's designation.

In addition, the revised Clark County title V operating permits program was submitted by Allen Biaggi, Administrator of the Nevada Division of Environmental Protection, on behalf of Nevada Governor Kenny C. Guinn, as his appointed designee. Thus, the commenter's suggestion that the revised Clark County program submittal was made by an entity lacking the necessary legal authority under part 70 is clearly not the case. Moreover, DAQM has assured EPA that it assumes all air quality management commitments made by the County's Health District. For these reasons, EPA believes it is appropriate that full title V program approval is granted to the Clark County Department of Air Quality Management.

2. Clark County Regulations Are Not SIP-Approved

Mr. Hall also comments that the applicant submitted, as part of its revised title V operating permits program, local regulations that are not approved into the Nevada State Implementation Plan (SIP), and that the submittal should have contained only rules that are SIP-approved. The commenter also claims that the applicant does not identify the versions (by date of adoption) of the rules submitted.

The rules revised by Clark County to address interim approval deficiencies are Sections 0 ("Definitions") and 19

("Part 70 Operating Permits"). Mr. Hall is correct that neither of these two rules are currently SIP-approved. However, Mr. Hall is mistaken in his belief that the rules constituting an agency's title V operating permits program need to be approved into the SIP. The establishment of operating permits programs is separate and distinct from the state implementation plan process. The statutory requirements for operating permit programs are contained in title V of the CAA (42 U.S.C. 7661-7661f), whereas the statutory requirements for state implementation plans are contained in title I of the Act (42 U.S.C. 7410). Nothing in the Act requires the local regulations relied upon by agencies for establishing permitting programs under title V of the Act to be incorporated into the state implementation plans required under title I of the Act.

Further, EPA's regulations implementing title V, which are codified at 40 CFR part 70, require that submitted operating permits programs include identification of "the specific statutes, administrative regulations, and, where appropriate, judicial decisions that demonstrate adequate authority" to carry out all aspects of the program, and that the statutes and regulations cited "shall be in the form of lawfully adopted State statutes and regulations. * * *" (See 40 CFR 70.4). While these statutes and regulations clearly need to be consistent with the requirements of title V and 40 CFR part 70, they do not need to be part of the State's implementation plan. EPA has determined that the revisions Clark County made to Sections 0 and 19 are consistent with the requirements of part 70, which makes the revisions approvable as part of Clark County's title V operating permits program.

As for Mr. Hall's assertion that the revised Clark County submittal does not identify the versions of the rules upon which it is based, EPA disagrees. The revised Clark County program submittal clearly identifies the versions of Sections 0 and 19 (the two regulations revised specifically to address interim approval deficiencies) as being those adopted by Clark County on May 24, 2001.

3. Clark County's Definitions Rule

Mr. Hall further comments that Clark County's revised title V program submittal contains a revision to a regulation (Clark County Section 0—Definitions) that was recently vacated by the 9th Circuit Court of Appeals. The commenter claims that since the date of EPA's proposed approval of the Clark County title V program (October 10,

2001) is well after the date of the court's decision to vacate EPA's approval of Clark County's Section 0 (August 29, 2001). EPA has erred in its proposal to grant full approval to the Clark County program, which relies, in part, on this vacated rule section.

The commenter is correct that EPA's final rulemaking approving Clark County Section 0 ("Definitions") and other rules into the Clark County portion of the Nevada SIP was recently vacated by the court. Mr. Hall is also correct that the revised Clark County operating permits program relies, in part, on the definitions in Section 0. However, the commenter is incorrect in his evaluation of the impact of the court's action relative to the County's title V program. While the court did vacate EPA's approval of Section 0 into the SIP, this action does not vacate Section 0 as a valid Clark County regulation. Section 0 remains valid and legally enforceable by Clark County. As noted in our response to issue 2 above, EPA regulations require that the rules comprising programs submitted for approval under part 70 must be enforceable by the State (or local entity), not EPA, and must meet the requirements of part 70. The Clark County title V program was granted only interim approval, in part, because the definition of "applicable requirement" in Section 0 did not match the definition in 40 CFR 70.3. EPA is now granting full approval to the revised Clark County operating permits program because all of its interim approval deficiencies have been fixed, including Clark County's modification of the definition of "applicable requirement" in Section 0. Since Clark County's revised definition of applicable requirement is consistent with part 70 and is contained in a rule (Section 0) that is valid and legally enforceable by Clark County, EPA believes that this interim program deficiency previously identified by the Agency has been fully resolved.

4. EPA Unlawfully Extended Interim Approval

The commenter also cites his belief that the requirements of the CAA and 40 CFR part 70 were not met when EPA extended interim approval of the Clark County title V operating permits program more than two years beyond the August 14, 1995 initial interim approval date. Mr. Hall further claims that EPA is required to implement a federal permitting program in Clark County and to impose sanctions as set forth in 40 CFR 70.10.

On August 29, 1997, EPA published a final rule in the **Federal Register**

extending interim approval of operating permits programs nationwide to October 1, 1998 (62 FR 45732). In further rulemakings, EPA extended interim approvals again, ultimately promulgating a final rule on May 22, 2000 extending all operating permits program interim approvals up to December 1, 2001 (65 FR 32035). Section 307(b)(1) of the CAA requires in pertinent part that "[a]ny petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the **Federal Register**. * * *" The sixty day window for filing challenges to the current interim approval extension closed on July 21, 2000. Clearly, Mr. Hall's current claim that EPA unlawfully extended interim approval of the Clark County operating permits program and his request that EPA impose a federal part 71 program and sanctions against Clark County is not within the statutorily-mandated timeframe for such appeals.

Moreover, a timely challenge to EPA's subsequent extension of all operating permits program interim approvals was brought in the Court of Appeals for the D.C. Circuit against EPA, and a settlement agreement resolving this challenge was entered November 21, 2000, in *Sierra Club and the New York Public Interest Research Group v EPA*. A component of that settlement agreement was that EPA would amend 40 CFR part 70 to clarify that all existing interim approved programs expire on December 1, 2001 and cannot be extended. EPA is, therefore, acting in accordance with existing regulations in granting final title V operating permits program approval to Clark County, effective November 30, 2001, based on Clark County's revisions to their program which adequately addressed all interim approval deficiencies.

After carefully reviewing and considering the issues raised by Mr. Hall, EPA is taking final action to give full approval to the Clark County operating permits program.

B. Letter From Colleen Cripps, Bureau of Air Quality, NDEP Dated November 9, 2001

NDEP submitted a letter commenting on EPA's October 10, 2001 notice, in which the Agency proposed to take no action on four rule changes made by the State that were not required as conditions for receiving full program approval. Specifically, EPA proposed to take no action on the State's changes to Nevada Administrative Code (NAC) sections 445B.094, 445B.187, 445B.290, and 445B.294 because EPA deemed these changes to be unapprovable.

In its letter, NDEP requested that EPA reconsider approval of sections 445B.094 and 445B.290 in our final rulemaking. As noted in the technical support document (TSD) for our proposed action, EPA was concerned that NAC section 445B.094 (the definition of "major source") did not provide a major source threshold for PM₁₀ sources in attainment areas nor in PM₁₀ nonattainment areas that are not classified as "serious" because of an exclusion in section 445B.094. NDEP clarified in their comments that the exclusion in section 445B.094 applies only to particulate matter greater than 10 microns in size. Thus, there is no exclusion for PM₁₀, which is particulate matter less than 10 microns in size. EPA's concern about NAC section 445B.290 ("Class I-B application for Class I operating permit; filing requirement") was that it appeared to not require certain nonmajor affected sources to apply for a Class I permit. NDEP's comments clarified that when section 445B.290 is read together with the "Class I source" definition at NAC 445B.036, there is a clear requirement that all affected sources apply for and obtain Class I operating permits.

EPA agrees with NDEP that the revisions to NAC sections 445B.094 and 445B.290 are consistent with the requirements of part 70 and today's action grants approval to these two additional changes as part of our full approval of the NDEP operating permits program.

III. EPA's Final Action

A. Full Approval of the Clark County, Washoe County, and NDEP Operating Permit Programs

EPA is granting full approval to the operating permits programs submitted by Clark County, Washoe County, and NDEP based on the revisions submitted on June 1, 2001, May 8, 2001, and May 30, 2001, respectively. The revisions submitted by the three agencies satisfactorily address the program deficiencies identified in EPA's interim approvals published on July 13, 1995 for Clark County (60 FR 36070), January 5, 1995 for Washoe County (60 FR 1741), and December 12, 1995 for NDEP (60 FR 63631).

In addition, EPA is approving, as a revision to NDEP's title V program, several additional rule changes made by the State, including the revisions described in section II.B above to sections 445B.094 (definition of major source) and 445B.290 (class I operating permit filing requirement) upon which EPA had proposed to take no action. As discussed in greater detail in the

proposal, EPA also approves a revision to NAC section 445B.138, the definition of potential to emit ("PTE"), based on NDEP's representations that it will implement the PTE definition in a manner that is consistent with judicial decisions and EPA policies. In the future, if NDEP does not implement the PTE definition consistent with our guidance, and/or has not established a sufficient compliance incentive absent federal and citizen's enforceability, EPA could find that the State has failed to administer or enforce its program and may take action as authorized by 40 CFR 70.10(b). Finally, EPA also finalizes the other rule revisions listed in Table 1 of EPA's October 10, 2001 proposed rulemaking.

B. Effective Date of Full Approval

EPA is using the good cause exception under the Administrative Procedures Act (APA) to make the full approval of the Clark County, Washoe County, and NDEP programs effective on November 30, 2001. In relevant part, the APA provides that publication of "a substantive rule shall be made not less than 30 days before its effective date, except—. . . (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of the Clark County, Washoe County, and NDEP programs expires on December 1, 2001. In the absence of this full approval of the amended programs taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect statewide in Nevada and would remain in place until the effective date of fully-approved programs. EPA believes it is in the public interest for sources, the public and the State and local permitting authorities to avoid any gap in coverage of the part 70 program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Clark County, Washoe County, and NDEP have been administering title V permit programs for 6 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and

currently operational programs. The change from the interim approved programs which substantially met the part 70 requirements, to the fully approved programs is relatively minor, in particular if compared to the changes between state and locally-established and administered programs and the federal program.

C. The Scope of EPA's Full Approval

In their program submissions, Clark County, Washoe County, and NDEP did not assert jurisdiction over Indian country. To date, no tribal government in Nevada has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan v. EPA*, (D.C. Cir. No. 99-1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

D. Citizen Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

Two individuals commented on what they believe to be deficiencies with respect to the Clark County title V program. As stated in the **Federal Register** notice published on October 10, 2001 (66 FR 51620) proposing to fully approve Clark County's operating

permits program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this final approval is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) or Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

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). This rule will be effective on November 30, 2001.

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 February 4, 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 70

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

Dated: November 29, 2001.

Laura Yoshii,

Acting Regional Administrator, Region 9.

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

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

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

2. Appendix A to part 70 is amended by revising paragraphs (a) (b), and (c) under Nevada to read as follows:

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

* * * * *

Nevada

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(a) Nevada Division of Environmental Protection:

(1) Submitted on February 8, 1995; interim approval effective on January 11, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on May 30, 2001. Full approval is effective on November 30, 2001.

(b) Washoe County District Health Department:

(1) Submitted on November 18, 1993; interim approval effective on March 6, 1995; interim approval expires December 1, 2001.

(2) Revisions submitted on May 8, 2001. Full approval is effective on November 30, 2001.

(c) Clark County Department of Air Quality Management:

(1) Submitted on January 12, 1994 and amended on July 18 and September 21, 1994; interim approval effective on August 14, 1995; interim approval expires on December 1, 2001.

(2) Revisions submitted on June 1, 2001. Full approval is effective on November 30, 2001.

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[FR Doc. 01-30097 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300734A; FRL-6804-4]

RIN 2070-AB78

4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], Dichlobenil, Diphenylamine, Sulprofos, Pendimethalin, and Terbacil; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule establishes, modifies, and revokes specific tolerances for residues of the herbicides dichlobenil, metribuzin, pendimethalin, and terbacil; the plant growth regulator diphenylamine, and the insecticide sulprofos. EPA is revoking certain tolerances because EPA has canceled the food uses associated with them. The regulatory actions proposed in this final rule are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. This final rule revokes 29 tolerances, but only one tolerance reassessment (sulprofos) is counted here toward the August, 2002 review deadline. The tolerances associated with the other 28 revocations were reassessed and counted previously through the Reregistration Eligibility Decision (RED) process.

DATES: This regulation is effective March 5, 2002. Objections and requests for hearings, identified by docket control number OPP-300734A, must be

received by EPA on or before February 4, 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 IV. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300734A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8037; and e-mail address: nevola.joseph@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	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/fedrgrstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/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-300734A. 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, 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.

II. Background

A. What Action is the Agency Taking?

This final rule establishes, modifies, and revokes the tolerances for residues of 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one, metribuzin, dichlobenil, diphenylamine, sulprofos, pendimethalin, and terbacil in or on certain specified commodities.

The tolerances revoked by this rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. These pesticides are no longer used on those specified commodities within the United States, and no one commented that there was a need for EPA to retain the tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods could potentially encourage misuse of pesticides within the United

States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Today's final rule does not revoke or modify those tolerances for which EPA received comments demonstrating a need for the tolerance to remain as currently expressed. Generally, EPA will proceed with the revocation or modification of these tolerances on the grounds discussed above only if: (i) Prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained, (ii) EPA independently verifies that the tolerance is no longer needed or should be otherwise modified, or (iii) the tolerance is not supported by data that demonstrate that the tolerance meets the requirements under FQPA.

In the **Federal Register** of October 16, 1998 (63 FR 55565) (FRL-6035-7), EPA issued a proposed rule to establish, revise, or revoke the tolerances listed in this final rule. EPA proposed revocations pertaining to pesticides whose registrations were canceled because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled all registered uses associated with the tolerance revocations for these pesticides. Also, the October 16, 1998 proposal invited public comment for consideration and for support of tolerance retention under FFDC standards.

The following comments were received by the Agency in response to the document published on October 16, 1998:

1. *Diphenylamine.* A comment was received from the European Union (EU) that expressed concern with EPA's proposed actions to establish 0.01 ppm (the limit of detection) for residues of diphenylamine in milk, meat, fat, and meat byproducts (excluding liver) of cattle, goats, horses, and sheep. The EU believed that EPA's evaluation appeared to consider the limit of detection as the only acceptable limit for all the commodities listed. The EU argued that an accurate study of animal metabolism has not been carried out by EPA before taking such action.

Also, the EU wrote that the European Community did an evaluation which led

to different proposed Maximum Residue Limits (MRLs) for diphenylamine about two years prior to the proposed rule. In addition, the EU believed that a clear import tolerance and pesticide policy had not been established by the Agency.

Agency response. A Reregistration Eligibility Decision (RED) for diphenylamine was approved on September 30, 1997. Through the RED process, EPA determined that the tolerances recommended in the RED document met the safety standards under FQPA. In particular, adequate data indicate that tolerances for residues in milk and meat could be increased from the current level of 0.0 ppm and established as separate tolerances set at 0.01 ppm. Both a 1996 study on edible tissues and milk from lactating dairy cows, and a 1996 study on milk and tissues from lactating goats are cited in the bibliography of the RED regarding tolerance recommendations for milk and meat, fat, and meat byproducts (excluding liver) of cattle, goats, horses, and sheep. The Agency believes that these data sufficiently support EPA's finding.

When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs, although EPA may establish a tolerance that is different. In this case, differences between Codex and U.S. tolerances on milk and meat at 0.01 ppm is justified by data. Further, no diphenylamine Codex MRLs are listed for milk or meat in the Food and Agriculture Organization of the United Nations Statistical (FAOSTAT) database for pesticide residues in food, as of the last update on September 2, 1999. Also, no diphenylamine MRLs are listed for milk or meat in the EU MRLs listed in EU's Food Safety database for pesticide residues, as of the last update on March 12, 2001.

Since the time when the EU comment on import tolerances was received, EPA published in the **Federal Register** on June 1, 2000 (65 FR 35069) (FRL-6559-3) an import tolerance guidance entitled "Pesticides; Guidance on Pesticide Import Tolerances and Residue Data for Imported Food; Request for Comment." In this document, EPA solicited comments on the approach reflected in the guidance on how to obtain an import tolerance, both for establishing new import tolerances and for modifying or maintaining existing U. S. tolerances for import purposes when U. S. uses or registrations are canceled.

Therefore, EPA is establishing tolerances in 40 CFR 180.190 for diphenylamine at 0.01 ppm for milk, meat, fat, and meat byproducts, except liver of cattle, goats, horses, and sheep. Also, EPA is establishing separate

tolerances at 0.1 ppm for liver of cattle, goats, horses, and sheep. In addition, EPA is establishing a tolerance at 30 ppm for "apple, wet pomace" because data from an adequate apple processing study indicate that it is needed. EPA is changing the name of the commodity tolerance "apple, preharvest or postharvest, including wraps" in 40 CFR 180.190 to "apple from preharvest or postharvest use, including use of impregnated wraps" to conform to current Agency practice.

2. *Terbacil.* Comment from DuPont Agricultural Products. A comment was received by the Agency from DuPont Agricultural Products agreeing with the proposed reassessment action for terbacil and the EPA Terbacil RED that the tolerance definition listed under 40 CFR 180.209(a) and (b) should be identical for all commodities, and all tolerances should be listed under one section. However, DuPont requested that the terbacil tolerance expression should be further simplified by including only the parent and metabolite A. DuPont claimed that analysis of all three minor metabolites for each commodity is not needed to assure compliance with the label directions since metabolites B and C are rarely detected. DuPont declared that the existing tolerance levels for terbacil are adequate to assure compliance with label directions, but that it would be appropriate to include the more conservative, higher levels as proposed in the October 16, 1998 document for those crops other than alfalfa forage and hay.

Agency response. The Agency believes the tolerances for terbacil must include all the metabolites. A tolerance is the maximum pesticide chemical residue allowable in or on a food from the use of a pesticide registered under FIFRA. The term "pesticide chemical residue" is defined under section 201(q)(2) of the FFDCFA as "a pesticide chemical or any other substance that is present on or in the commodity or food primarily as a result of the metabolism or other degradation of a pesticide chemical."

EPA has determined that the pesticide chemical residues in the tolerance expression for terbacil are the parent and its metabolites, labelled A, B, and C. The metabolites were included in the terbacil risk assessment as residues of toxic concern (i.e., all four chemicals contribute to the risk) and therefore, all four should be regulated in the tolerance expression. DuPont's comments regarding compliance with label directions do not offer any reason why metabolites B and C should not be regulated as pesticide chemical residues

of toxic concern. The reason for the tolerance is to limit the risk, not merely to ensure compliance with label directions, even though such compliance may be an important factor in limiting the risk. The Agency will maintain the proposed tolerance expression for terbacil.

Therefore, the tolerance expressions are unified to include terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil. In accordance, 40 CFR 180.209, paragraphs (a)(1) and (a)(2) are combined. To reflect the combined limit of detection for terbacil and its three regulated metabolites, EPA is increasing the tolerances for (i) peaches from 0.1 to 0.2 ppm and revising the name to "peach," (ii) blueberries from 0.1 to 0.2 ppm and revising the name to "blueberry," and (iii) caneberries (blackberries, boysenberries, dewberries, loganberries, raspberries, and youngberries) from 0.1 to 0.2 ppm and revising the name to "caneberry." Based upon available residue data, the Agency is increasing tolerances for (i) apples from 0.1 to 0.3 ppm and revising the name to "apple," (ii) asparagus from 0.2 to 0.4 ppm, and (iii) sugarcane from 0.1 to 0.4 ppm.

Also, available data support the establishment of lower alfalfa tolerances. Therefore, EPA is decreasing the tolerances for "alfalfa, forage" from 5.0 to 1.0 ppm, and "alfalfa, hay" from 5.0 to 2.0 ppm. The Agency has determined that once these tolerances on alfalfa are decreased, the tolerances for residues of terbacil and its metabolites on all animal commodities could be revoked because there is no reasonable expectation of finite residues in animal commodities 40 CFR 180.6(a)(3). Therefore, EPA is revoking the tolerances in 40 CFR 180.209 for residues of terbacil and its metabolites in or on cattle, fat; cattle, mby; cattle, meat; goats, fat; goats, mby; goats, meat; hogs, fat; hogs, mby; hogs, meat; horses, fat; horses, mby; horses, meat; milk, fat; sheep, fat; sheep, mby; and sheep, meat.

In addition, EPA is revoking the tolerances for residues of terbacil and its metabolites in or on pears; pecans; sainfoin, forage; and sainfoin hay in 40 CFR 180.209 because no registered uses exist.

Note, a tolerance for citrus fruits appeared in the table under 180.209 in the rule of October 16, 1998 (63 FR 55565) because it existed at that time.

However, that citrus fruits tolerance had been previously proposed for revocation on February 5, 1998 (63 FR 5907) (FRL-5743-9) and was later revoked in a final rule published on October 26, 1998 (63 FR 57067) (FRL-6035-6).

EPA is changing the name of the commodity tolerances "mint hay (peppermint and spearmint)" given on one line in 40 CFR 180.209 by listing the two tolerances on separate lines and revising their names to "peppermint, tops" and "spearmint, tops" to conform to current Agency practice. EPA is also revising the name "strawberries" to "strawberry."

No comments were received by the Agency concerning the following:

3. *Metribuzin*. In the codification section of the proposed rule (October 16, 1998, 63 FR 55565), EPA inadvertently listed the tolerance for metribuzin on lentil in error as 0.5 instead of the correct level of 0.05 ppm. That tolerance change was an unintended typographical error. No change concerning the lentil tolerance level was proposed for metribuzin. The name change from lentils (dried) to lentil was proposed as one of the "other terminology changes." Therefore, EPA is changing the tolerance name to "lentil," but the tolerance level will remain at 0.05 ppm.

In the proposed rule of October 16, 1998, the tolerance for sugarcane molasses in 40 CFR 180.332 was noted to be listed incorrectly as 0.3 ppm, and was proposed to be revised to reflect the correct tolerance of 2 ppm (August 24, 1978, 43 FR 35915), along with a terminology revision to "sugarcane, molasses." A final rule on May 24, 2000 (65 FR 33691) (FRL-6043-1) transferred the tolerance for sugarcane molasses at 2.0 ppm from 185.250 to 180.332(a), increased the existing tolerance in 40 CFR 180.332(a) for sugarcane molasses from 0.3 ppm to 2.0 ppm, and removed the duplicate entry for sugarcane molasses at 2.0 ppm created by the transfer. Therefore, no further action in this rule is required to implement the metribuzin RED regarding sugarcane molasses.

The metribuzin RED, approved on May 20, 1997, stated that the tolerance for sweet corn should be revoked because there were no registered uses. However, a registered use for sweet corn was approved in August, 1997. Therefore, the tolerance for corn, fresh (inc. sweet K + CWHR) is not revoked. EPA is revoking the tolerance in 40 CFR 180.332 for residues of metribuzin and its metabolites in or on lentils, vine hay because it is no longer considered a significant livestock feed commodity; therefore a tolerance is not necessary.

In 40 CFR 180.332, EPA is establishing tolerances for both barley, hay and wheat, hay at 7 parts per million (ppm). EPA is increasing tolerances for asparagus from 0.05 to 0.1 ppm and for soybeans from 0.1 to 0.3 ppm, and is revising the name from "soybeans" to "soybean, seed." The tolerance for peas, vine hay is increased from 0.05 to 4 ppm, and the name is revised to "pea, field, hay."

Other terminology changes are given in the regulatory text as follows: "Alfalfa, green" to "alfalfa, forage;" "barley, milled fractions (except flour)" to "barley, pearled barley;" "carrots" to "carrot;" "cattle, mby" to "cattle, meat byproducts;" "corn, fodder" to "corn, field, stover" and "corn, sweet, stover;" "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, fresh (inc. sweet K+CWHR)" to "corn, sweet, kernel plus cob with husks removed;" "corn, grain (inc. popcorn)" to "corn, field, grain" and "corn, pop, grain;" "eggs" to "egg;" "goats, fat;" to "goat, fat;" "goats, mby;" to "goat, meat byproducts;" "goats, meat;" to "goat, meat;" "grass" to "grass, forage;" "hogs, fat;" to "hog, fat;" "hogs, mby;" to "hog, meat byproducts;" "hogs, meat;" to "hog, meat;" "horses, fat;" to "horse, fat;" "horses, mby;" to "horse, meat byproducts;" "horses, meat;" to "horse, meat;" "peas" to "pea, succulent;" "peas (dried)" to "pea, dry, seed;" "peas, forage" to "pea, field, vines;" "potatoes, processed (inc. potato chips)" to "potato, processed potato waste" and "potato, chips;" "poultry, mby;" to "poultry, meat byproducts;" "sainfoin" to "sainfoin, forage;" "sheep, mby;" to "sheep, meat byproducts;" "soybeans, forage" to "soybean, forage;" "soybeans, hay" to "soybean, hay;" "sugarcane molasses" to "sugarcane, molasses;" "tomatoes" to "tomato;" and "wheat, milled fractions (except flour)" to "wheat, bran;" "wheat, middlings;" "wheat, shorts;" and "wheat, germ."

4. *Dichlobenil*. In 40 CFR 180.231, the metabolite 2,6-Dichlorobenzamide (BAM) is added to the tolerance expression of dichlobenil (2,6-dichlorobenzonitrile) and the metabolite 2,6-dichlorobenzoic acid (2,6-DCBA) is deleted from the tolerance expression. Based upon the available residue data and to reflect the combined residues of dichlobenil and BAM, tolerances for apples and pears are increased from 0.15 to 0.5 ppm, and tolerances for blackberries, cranberries, and raspberries are decreased from 0.15 to 0.10 ppm.

EPA is revoking the tolerances for residues of dichlobenil and its metabolite in or on almond hulls; avocados; citrus; figs; and mangoes in

40 CFR 180.231 because no registered uses exist. The Agency is revoking the tolerance for nuts in 40 CFR 180.231 and is establishing a tolerance for filbert at 0.1 ppm as a separate tolerance because no other tree nut uses are being supported by the registrant.

Terminology changes are given in the regulatory text as follows: "Apples" to "apple," "blackberries" to "blackberry," "blueberries" to "blueberry," "cranberries" to "cranberry," "grapes" to "grape," "pears" to "pear," "raspberries" to "raspberry" and "stone fruits" to "fruit, stone, group."

5. *Pendimethalin*. In 40 CFR 180.361, EPA is establishing a tolerance at 0.1 ppm for rice, straw; and is increasing the tolerance on rice grain from 0.05 to 0.1 ppm based on available field trial data and to reflect the analytical method's limit of quantitation for the combined residues of pendimethalin and its regulated metabolite. EPA also combines the tolerance for garlic, listed under § 180.361(c) "Tolerances with regional registrations," with § 180.361(a), which lists tolerances for registrations without regional restriction, since EPA has data that support a national registration and tolerance for garlic at the same level (0.1 ppm).

EPA is revoking the tolerance in 40 CFR 180.361 for residues of pendimethalin and its metabolite in or on peanut, forage because it is no longer considered a significant livestock feed commodity; therefore a tolerance is not necessary.

Terminology changes are given in the regulatory text as follows: "beans, lima (dry, snap)" to "bean, lima, seed" and "bean, lima, succulent;" "beans, forage" to "bean, forage" "beans, hay" to "bean, hay;" "corn, fodder" to "corn, field, stover" and "corn, sweet, stover;" "corn, forage" to "corn, field, forage" and "corn, sweet, forage;" "corn, grain" to "corn, field, grain" and "corn, pop, grain;" "corn, fresh (including sweet, K+CWHR)" to "corn, sweet, kernel plus cob with husks removed;" "cottonseed" to "cotton, undelinted seed;" "onions, dry bulb" to "onion, dry bulb;" "peanuts" to "peanut;" "peas (except field peas)" to "pea, succulent;" "potatoes" to "potato;" "sorghum, fodder" to "sorghum, grain, stover;" "sorghum, grain" to "sorghum, grain, grain;" "soybeans" to "soybean, seed;" "soybeans, forage" to "soybean, forage;" "soybeans, hay" to "soybean, hay;" and "sunflower, seeds" to "sunflower, seed."

6. *Sulprofos*. EPA is revoking the tolerance in 40 CFR 180.542 for residues of sulprofos and its cholinesterase-inhibiting metabolites in cottonseed oil

because no registered use exists. In the proposed rule, the cottonseed oil tolerance was listed in 40 CFR 185.3000 (63 FR 55565); however, that tolerance was moved into 40 CFR 180.542 and § 185.3000 was removed (65 FR 33703, May 24, 2000) (FRL-6041-9).

B. What is the Agency's Authority for Taking this Action?

EPA has issued Reregistration Eligibility Decisions (REDs) for the active ingredients listed in this final rule with the exception of sulprofos. During the reregistration process, EPA approved the registrant's request for voluntary cancellation of sulprofos registrations (61 FR 65218, December 11, 1996) (FRL-5573-6). No active registrations exist for sulprofos.

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). EPA is establishing, modifying, and revoking tolerances to implement the tolerance recommendations made during the reregistration process. As part of the reregistration process, EPA is required to determine whether each of the amended tolerances meets the safety standards under the Food Quality Protection Act (FQPA). The safety finding determination is found in detail in each RED for the active ingredient. RED recommendations, such as establishing or modifying tolerances, require assessment under the FQPA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in those REDs because there are no registered uses may be revoked in this document without such assessment, because the tolerances are no longer necessary. REDs propose certain tolerance actions to be implemented to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of the REDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242-2419, telephone 1-800-490-9198; fax 513-489-8695 and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 1-800-553-6847 or 703-605-6000. Electronic copies of the RED are available on the internet at <http://www.epa.gov/pesticides/reregistration/status.htm>.

It is EPA's general practice to revoke tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may

encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

C. When Do These Actions Become Effective?

These actions become effective 90 days following publication of this final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days following publication of this final rule to ensure that all affected parties receive notice of EPA's actions. Consequently, the effective date is March 5, 2002. For this final rule, tolerances that were revoked because registered uses did not exist concerned uses which have been canceled for more than a year. Therefore, commodities containing these pesticide residues should have cleared the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocation or modification, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (i) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (ii) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

D. What is the Contribution to Tolerance Reassessment?

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August, 2006. As of November 27, 2001, EPA has reassessed over 3,830 tolerances. In this document, EPA revokes 29 tolerances of

which 28 were previously counted as reassessed via the RED process. Therefore, one tolerance revocation is counted here as a tolerance reassessment toward the August, 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Are There Any International Trade Issues Raised by this Final Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the internet at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations," then select "Regulations and Proposed Rules" and then look up the entry for this document under **Federal Register—Environmental Documents**. You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

IV. Objections and Hearing Requests

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-300734A 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 February 4, 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. *Objection/hearing 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 IV.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 docket control number OPP-300734A, 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).

V. Regulatory Assessment Requirements

This final rule establishes, modifies, and revokes tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions; i.e., establishment and modification of a tolerance, and tolerance revocation for which extraordinary circumstances do not exist, 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 other 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account these analyses, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present establishments, modifications, or revocations that would change EPA's previous analyses.

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.

VI. 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: November 20, 2001.
Marcia E. Mulkey,
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 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 180.190 is amended by revising paragraph (a) to read as follows:

§ 180.190 Diphenylamine; tolerances for residues.

(a) *General.* Tolerances for residues of the plant regulator diphenylamine are established in or on the following commodities:

Commodity	Parts per million
Apple, wet pomace	30.0
Apple from preharvest or postharvest use, including use of impregnated wraps	10.0
Cattle, fat	0.01
Cattle, liver	0.1
Cattle, meat byproducts, except liver	0.01
Cattle, meat	0.01
Goat, fat	0.01
Goat, liver	0.1
Goat, meat byproducts, except liver	0.01
Goat, meat	0.01
Horse, fat	0.01
Horse, liver	0.1
Horse, meat byproducts, except liver	0.01
Horse, meat	0.01
Milk	0.01
Sheep, fat	0.01
Sheep, liver	0.1
Sheep, meat byproducts, except liver	0.01
Sheep, meat	0.01

* * * * *

3. Section 180.209 is amended by revising paragraph (a) to read as follows:

§ 180.209 Terbacil; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites [3-tert-butyl-5-chloro-6-hydroxymethyluracil], [6-chloro-2,3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], and [6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one], calculated as terbacil, in or on raw agricultural commodities as follows:

Commodity	Parts per million
Alfalfa, forage	1.0
Alfalfa, hay	2.0
Apple	0.3
Asparagus	0.4
Blueberry	0.2
Caneberry	0.2
Peach	0.2
Peppermint, tops	2.0
Spearmint, tops	2.0
Strawberry	0.1
Sugarcane	0.4

* * * * *

4. Section 180.231 is amended by revising paragraph (a) to read as follows:

§ 180.231 Dichlobenil; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide dichlobenil (2,6-dichlorobenzonitrile) and its metabolite 2,6-dichlorobenzamide in or on the following raw agricultural commodities:

Commodity	Parts per million
Apple	0.5
Blackberry	0.1
Blueberry	0.15
Cranberry	0.1
Filbert	0.1
Fruit, stone, group	0.15
Grape	0.15
Pear	0.5
Raspberry	0.1

* * * * *

5. Section 180.332 is amended by revising the table under paragraph (a) to read as follows:

§ 180.332 Metribuzin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Alfalfa, forage	2.0
Alfalfa, hay	7.0

Commodity	Parts per million
Asparagus	0.1
Barley, grain	0.75
Barley, hay	7.0
Barley, pearled barley	3.0
Barley, straw	1.0
Carrot	0.3
Cattle, fat	0.7
Cattle, meat	0.7
Cattle, meat byproducts	0.7
Corn, field, forage	0.1
Corn, field, grain	0.05
Corn, field, stover	0.1
Corn, pop, grain	0.05
Corn, sweet, forage	0.1
Corn, sweet, kernel plus cob with husks removed	0.05
Corn, sweet, stover	0.1
Egg	0.01
Goat, fat	0.7
Goat, meat	0.7
Goat, meat byproducts	0.7
Grass, forage	2.0
Grass, hay	7.0
Hog, fat	0.7
Hog, meat	0.7
Hog, meat byproducts	0.7
Horse, fat	0.7
Horse, meat	0.7
Horse, meat byproducts	0.7
Lentil	0.05
Milk	0.05
Pea, dry, seed	0.05
Pea, field, hay	4.0
Pea, field, vines	0.5
Pea, succulent	0.1
Potato	0.6
Potato, chips	3.0
Potato, processed potato waste	3.0
Potato waste, processed (dried)	3.0
Poultry, fat	0.7
Poultry, meat	0.7
Poultry, meat byproducts	0.7
Sainfoin, forage	2.0
Sainfoin, hay	7.0
Sheep, fat	0.7
Sheep, meat	0.7
Sheep, meat byproducts	0.7
Soybean, seed	0.3
Soybean, forage	4.0
Soybean, hay	4.0
Sugarcane	0.1
Sugarcane, molasses	2.0
Tomato	0.1
Wheat, bran	3.0
Wheat, forage	2.0
Wheat, germ	3.0
Wheat, grain	0.75
Wheat, hay	7.0
Wheat, middlings	3.0
Wheat, shorts	3.0
Wheat, straw	1.0

* * * * *

6. Section 180.361 is amended by alphabetically adding the commodity "garlic" in paragraph (c) to the table in paragraph (a), by revising paragraph (a), and removing the remaining text from paragraph (c) and reserving it to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

(a) *General.* * * * *

Commodity	Parts per million
Bean, lima, seed	0.1
Bean, lima, succulent	0.1
Bean, forage	0.1
Bean, hay	0.1
Corn, field, forage	0.1
Corn, field, grain	0.1
Corn, field, stover	0.1
Corn, pop, grain	0.1
Corn, sweet, forage	0.1
Corn, sweet, kernel plus cob with husks removed	0.1
Corn, sweet, stover	0.1
Cotton, undelinted seed	0.1
Garlic	0.1
Onion, dry bulb	0.1
Pea, succulent	0.1
Peanut	0.1
Peanut, hay	0.1
Potato	0.1
Rice, grain	0.1
Rice, straw	0.1
Sorghum, forage	0.1
Sorghum, grain, grain	0.1
Sorghum, grain, stover	0.1
Soybean, forage	0.1
Soybean, hay	0.1
Soybean, seed	0.1
Sugarcane	0.1
Sunflower, seed	0.1

* * * * *
(c) *Tolerances with regional registrations.* [Reserved]

* * * * *

§ 180.542 [Removed]

7. Section 180.542 is removed.

[FR Doc. 01-30103 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-2734; MM Docket No. 01-178; RM-10195]

Radio Broadcasting Services; Wadley, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 66 FR 42622 (August 14, 2001), this document allots Channel 227A to Wadley, Georgia, and provides Wadley with its first local aural transmission service. The coordinates for Channel 227A at Wadley are 32-52-00 North Latitude and 82-24-15 West Longitude.

DATES: Effective January 7, 2002.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-178, adopted November 14, 2001, and released November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 44512th Street, SW, Room CY-A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202 863-2893, facsimile 202 863-2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 reads as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Wadley, Channel 227A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01-30088 Filed 12-4-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 001226367-0367-01; I.D. 111901C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustment for Dover Sole in the Limited Entry Trawl Fishery

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS announces a 1,000 lb (454 kg)/trip limit of Dover sole in the limited entry trawl fishery coastwide for the month of December. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations, is within the 2001 optimum yield (OY) for Dover sole and is intended to allow landings of Dover sole caught incidentally in other flatfish fisheries.

DATES: Changes to management measures are effective 0001 hours local time December 1, 2001, unless modified, superseded, or rescinded through the effective dates of the 2002 specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments on this rule will be accepted through December 20, 2001.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070; or to Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Jamie Goen, Northwest Region, NMFS, 206-526-6140.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the Federal Register: <http://www.access.gpo.gov/su-docs/aces/aces140.html>.

The Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Annual groundfish specifications and management measures are initially developed by the Pacific Fishery Management Council (Council) and are implemented by NMFS. The specifications and management measures for the current fishing year (January 1 through December 31, 2001) were published at 66 FR 2338, January 11, 2001, as

amended at 66 FR 10208 (February 14, 2001), at 66 FR 18409 (April 9, 2001), at 66 FR 22467 (May 4, 2001), at 66 FR 28676 (May 24, 2001), at 66 FR 35388 (July 5, 2001), at 66 FR 38162 (July 23, 2001), at 66 FR 50851 (October 5, 2001), at 66 FR 54721 (October 30, 2001), and at 66 FR 55599 (November 2, 2001).

Among the more than 80 species managed under the FMP are Dover sole, thornyheads, sablefish, and flatfish (flatfish is used in this document to mean all flatfish listed at 50 CFR 660.302, except Dover sole). In the trawl fishery, Dover sole is targeted along with thornyheads and sablefish. Because these species are targeted together with trawl gear, they are managed as part of a multi-species complex consisting of Dover sole, thornyheads (shortspine and longspine), and sablefish, known as the DTS complex. In addition to the directed fishery for the DTS complex, Dover sole is also caught incidentally in other flatfish trawl fisheries on the continental shelf and slope.

Through August 2001, the best available information from PacFIN indicated that the DTS complex was approaching the commercial landed catch OY for 3 of 4 species, Dover sole (92 percent), trawl-caught sablefish (89 percent) and shortspine thornyhead (79.7 percent). Based on recommendations from the Council's September meeting, NMFS closed the limited entry trawl directed fishery for the DTS complex, including Dover sole, from October 2, 2001, through the effective date for the 2002 specifications and management measures in order to avoid exceeding the target landed catch OY of Dover sole, sablefish and shortspine thornyhead (66 FR 50851, October 5, 2001). However, other flatfish trawl fisheries, such as Petrale sole and arrowtooth flounder, have remained open since September. Thus, while it has been illegal to land Dover sole and any DTS complex species caught with trawl gear since October 2, 2001, Dover sole is still caught as bycatch in the other flatfish fisheries that have remained open and is assumed to be discarded. This discard is accounted for in calculating total catch by applying a discard rate recommended by the Council based on a trawl logbook

analysis of the incidental catch of Dover sole in other flatfish fisheries.

PacFIN data have been updated since the September Council meeting. The best available information indicates that 93 percent of the Dover sole allocation had been taken through October 31, 2001, leaving 515 mt of the Dover sole OY available for harvest. In order to account for the Dover sole caught incidentally in the winter flatfish fisheries, the Council recommended at its October 29 through November 2, 2001, meeting in Millbrae, CA, to allow a 1,000 lb (454 kg)/trip limit of Dover sole in December for the limited entry trawl fleet. This action would allow vessels to retain Dover sole that would otherwise have been incidentally harvested and discarded. Allowing the incidental retention of Dover sole in the flatfish fisheries is not expected to increase incidental interception of sablefish and shortspine thornyhead because flatfish trawling requires different fishing techniques and occurs in different fishing grounds than in the directed DTS trawl fisheries. Taking into account the number of vessels and trips per vessel by other flatfish fisheries over the past 3 years during the month of December, opening up this trip limit for incidentally caught Dover sole is expected to add another 200 to 300 mt to the landed catch OY, well within the approximately 500 mt of remaining OY.

NMFS Actions

NMFS concurs with the Council's recommendation and hereby announces a trip limit for the limited entry trawl fishery coastwide of 1,000 lb (454 kg)/trip of Dover sole from December 1, 2001, through the effective date of the 2002 specifications and management measures for the Pacific Coast groundfish fishery. This trip limit is intended to allow for Dover sole caught incidentally in other flatfish trawl fisheries.

Accordingly, at 66 FR 2338, January 11, 2001, as subsequently amended, in Section IV, under B. Limited Entry Fishery, Table 3 is revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

* * * * *

Table 3. 2001 Trip Limits 1/ and Gear Requirements 2/ for Limited Entry Trawl Gear
Read Section IV.A. NMFS Actions before using this table.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC	
1	Minor slope rockfish							
2	North		1,500 lb/ 2 months		2,000 lb/ 2 months		Closed Starting Oct	
3	South		14,000 lb/ 2 months			25,000 lb/ 2 months		
4	Spitnose - South	8,500 lb/ 2 months		14,000 lb/ 2 months		25,000 lb/ 2 months		
5	Pacific ocean perch ^{3/}	1,500 lb/month		2,500 lb/month		3,500 lb/month	Closed Starting Oct	
6	DTS complex - North							
7	Sablefish	5,000 lb/ 2 months			14,000 lb/ 2 months			
8	Longspine thornyhead	6,000 lb/ 2 months			6,000 lb/ 2 months		Closed Starting Oct	
9	Shortspine thornyhead	1,500 lb/ 2 months			1,500 lb/ 2 months			
10	Dover sole	65,000 lb/ 2 months		20,000 lb/ 2 months	15,000 lb/ 2 months	7,500 lb/month	Closed Oct-Nov 1,000 lb/trip	
11	DTS complex - South							
12	Sablefish	8,000 lb/ 2 months			11,000 lb/ 2 months			
13	Longspine thornyhead	6,000 lb/ 2 months			6,000 lb/ 2 months		Closed Starting Oct	
14	Shortspine thornyhead	1,500 lb/ 2 months			1,500 lb/ 2 months			
15	Dover sole		35,000 lb/ 2 months		30,000 lb/ 2 months	15,000 lb/month	Closed Oct-Nov 1,000 lb/trip	
16	Flatfish - North							
17	Arrowtooth flounder	20,000 lb/trip					Small and large footrope: 5,000 lb/trip, not to exceed 30,000 lb/mo	
18	Rex Sole	No Limit					No Limit	
19	Petrале Sole	No Restriction					Small footrope: 45,000 lb/mo, of which no more than 15,000 lb may be petrale sole Small and large footrope: 30,000 lb/mo	
20	All other flatfish ^{3/}	Small footrope: no limit; Large footrope: 1,000 lb/trip		Small footrope: 50,000 lb/mo, of which no more than 15,000 lb may be petrale sole and 10,000 lb may be arrowtooth; Large footrope: arrowtooth, 15,000 lb/trip for May and 5,000 lb/trip for June; petrale sole prohibited; rex included in all other flatfish; all other flatfish 1,000 lb/trip.	Small footrope: 45,000 lb/mo, of which no more than 15,000 lb may be petrale sole; Large footrope: arrowtooth 5,000 lb/trip not to exceed 30,000 lb/mo; petrale sole 100 lb/trip; rex included in all other flatfish; all other flatfish 1,000 lb/trip.		Small footrope: 30,000 lb/mo; Large footrope: 1,000 lb/trip	
21	Flatfish - South							
22	Arrowtooth flounder	20,000 lb/trip		Small footrope: no limit; Large footrope: 5,000 lb/trip			Small and large footrope: 5,000 lb/trip, not to exceed 30,000 lb/mo	
23	Rex Sole			No Limit				
24	Petrале Sole	No Restriction		Small footrope: no limit; Large footrope: included in "all other flatfish"			Small and large footrope: 30,000 lb/mo	
25	All other flatfish ^{3/}			Small footrope: no limit; Large footrope: 1,000 lb/trip		Small footrope: 45,000 lb/mo, of which no more than 15,000 lb may be petrale sole Large footrope: all other flatfish 1,000 lb/trip, of which no more than 100 lb/trip may be petrale sole	Small footrope: 30,000 lb/mo; Large footrope: 1,000 lb/trip	
26	Whiting shoreside ^{4/}	20,000 lb/trip			Primary Season		20,000 lb/trip	
27	Use of small footrope bottom trawl ^{5/} or midwater trawl required for landing all of the following species:							
28	Minor shelf rockfish							
29	North	300 lb/month			1,000 lb/month		300 lb/month	
30	South	500 lb/month			1,000 lb/month		500 lb/month	
31	Canary rockfish	100 lb/month			300 lb/month		Closed Starting Oct	
32	Widow rockfish							
33	mid-water trawl	20,000 lb/ 2 months	10,000 lb/ 2 months		Jul-Oct, in trips where 10,000 lb or more of whiting are landed, 2,000 lb/mo, with a combined widow/yellowtail limit of 500 lb/trip, otherwise 1,000 lb/mo.		25,000 lb/ 2 months	
34	small footrope trawl				1,000 lb/month			
35	Yellowtail - North ^{4/}							
36	mid-water trawl	30,000 lb/ 2 months	15,000 lb/ 2 months		Jul-Oct, trips where 10,000 lb or more of whiting are landed, 3,000 lb/mo with combined widow/yellowtail limit of 500 lb/trip, otherwise 1,500 lb/mo.		15,000 lb/ 2 months	
37	small footrope trawl		Without flatfish, 1,500 lb/mo. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 2,500 lb/trip and 30,000 lb/ 2 months.		Without flatfish, 1,500 lb/mo. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 7,500 lb/trip and not to exceed 15,000 lb/ 2 months.			
38	Bocaccio - South ^{6/}	300 lb/month			500 lb/month		Closed Starting Oct	
39	Chilipepper - South ^{6/}							
40	mid-water trawl				25,000 lb/ 2 months			
41	small footrope trawl				7,500 lb/ 2 months		5,000 lb/ 2 months	
42	Cowcod						Retention is Prohibited	
43	Minor nearshore rockfish							
44	North				200 lb/month			
45	South				200 lb/month			
46	Lingcod ^{7/}	No retention			400 lb/month	500 lb/month	Closed Starting Nov	

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border.
 "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.
 2/ Gear requirements and prohibitions are explained at paragraph IV.A.(14)
 3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with a trip limit.
 4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. See IV.B.(3)(c). The 20,000 lb/trip limit applies before and after the primary season.
 5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter.
 Midwater gear also may be used; the footrope must be bare. See paragraph IV.A. (14).
 6/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).
 7/ The size limit for lingcod is 24 inches (61 cm) total length.

* * * * *

Classification

This action is authorized by the regulations implementing the FMP and the annual specifications and management measures published at 66 FR 2338 (January 11, 2001), as amended at 66 FR 10208 (February 14, 2001), at 66 FR 18409 (April 9, 2001), at 66 FR 22467 (May 4, 2001), at 66 FR 28676 (May 24, 2001), at 66 FR 35388 (July 5, 2001), and 66 FR 38162 (July 23, 2001), at 66 FR 50851 (October 5, 2001), at 66 FR 54721 (October 30, 2001), and at 66 FR 55599 (November 2, 2001), and are based on the most recent data available.

The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and comment on this action pursuant to 5 U.S.C. 553(b)(B), as providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the trip limit allowance is only effective for approximately the last 30 days of the fishing year. Dover sole is below its target landed catch OY for the 2001 fishing year, and any delay in action would not provide enough time for the fisheries to have access to the remaining Dover sole OY. Thus, any delay in action would unnecessarily restrict commercial fishers and impede NMFS's

responsibility under the FMP to manage groundfish fisheries to achieve OY.

For these reasons, good cause also exists to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3).

This action is taken under the authority of 50 CFR 660.323 (b)(1) and is exempt from review under Executive Order 12866.

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

Dated: November 30, 2001.

Jonathan M. Kurland,

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

[FR Doc. 01-30112 Filed 11-30-01; 4:02 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 66, No. 234

Wednesday, December 5, 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 THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-107151-00]

RIN 1545-AX99

Constructive Transfers and Transfers of Property to a Third Party on Behalf of a Spouse; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the tax treatment of certain redemptions, during marriage or incident to divorce, of stock owned by a spouse or former spouse.

DATES: The public hearing originally scheduled for Friday, December 14, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, Regulations Unit, Associate Chief Counsel, (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the *Federal Register* on Friday, August 3, 2001, (66 FR 40659) announced that a public hearing was scheduled for December 14, 2001, at 10 a.m., in the auditorium of the Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20408. The subject of the public hearing is proposed regulations under section 1041 of the Internal Revenue Code. The public comment period for these proposed regulations expired on November 23, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of November 29, 2001, no

one has requested to speak. Therefore, the public hearing scheduled for December 14, 2001, is cancelled.

Guy R. Traynor,

*Federal Register Certifying Officer,
Regulations Unit, Associate Chief Counsel
(Income Tax & Accounting).*

[FR Doc. 01-30030 Filed 12-4-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

Student Financial Assistance

AGENCY: Department of Education.

ACTION: Notice of intention to establish negotiated rulemaking committees on issues for programs authorized under Title IV of the Higher Education Act of 1965, as amended.

SUMMARY: We announce our intention to establish two negotiated rulemaking committees to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended (HEA). Each committee will include representatives with interests that are significantly affected by the subject matter of the proposed regulations. We also announce a meeting to discuss the agenda and the procedures for the negotiated rulemaking sessions. We request nominations for members who represent individuals and organizations of key stakeholder constituencies that are involved in the student financial assistance programs authorized under Title IV of the HEA to serve on these committees.

DATES: We must receive your nominations for membership on the committees on or before December 19, 2001. We will hold a public meeting on December 14, 2001, at the Department of Education in Washington, DC for interested parties to discuss the agenda and the procedures for the negotiated rulemaking sessions.

ADDRESSES: Please send your nominations to Rose Fletcher, U.S. Department of Education, 1990 K Street, NW., Room 8061, Washington, DC 20006, or fax to Rose Fletcher at (202) 502-7873. You may also email your nominations to: Rose.Fletcher@ed.gov.

The meeting on December 14, 2001 will be held at the GSA Auditorium, Regional Office Building #3, 7th and D

Street, SW., Washington, DC from 9:00 am to 12:00 pm. Anyone interested in attending the meeting should contact Rose Fletcher at (202) 502-7812.

FOR FURTHER INFORMATION CONTACT: For information about the meetings and the nomination submission process: Rose Fletcher, U.S. Department of Education, 1990 K Street, NW., Room 8061, Washington, DC 20006. Telephone: (202) 502-7812.

For information about negotiated rulemaking: Carney McCullough, U.S. Department of Education, 1990 K Street, NW., Room 8071, Washington, DC 20006. Telephone (202) 502-7639.

If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person for information about the meetings listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in alternative format), notify the contact person for information about the meeting listed in this notice in advance of the scheduled meeting date. Although we will attempt to meet a request we receive, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Regulatory Issues

We intend to act on regulatory proposals to streamline the current Federal student financial assistance program regulations while maintaining or improving program integrity. Many of these proposals were submitted by individuals and organizations in response to a request for such recommendations from the affected public made on May 24, 2001 by Representative Howard P. "Buck" McKeon and Representative Patsy Mink, the Chairman and Ranking Member of the Subcommittee on 21st Century Competitiveness of the Education and the Workforce Committee of the U.S. House of Representatives. The Subcommittee received over 3,000

responses on the regulations between May and the end of July 2001. Those proposals that would not in fact require statutory amendments have been provided to the Department for consideration.

In acting on these proposals and minor changes from the Department, we intend to advance the Administration's management reform priorities by taking steps that will provide immediate, concrete and measurable results in the near term. In reforming the Federal Government, President Bush has called for an "active, but limited" role for the Federal Government that empowers citizens to make decisions, ensures results through accountability, and promotes innovation through competition. To advance these goals, we intend to place priority on changes that will reduce the expense and difficulty of complying with the current Federal student financial assistance regulations, reduce the operating costs of administering the programs through greater use of e-commerce, simplify processes and improve service, and effect other changes that will improve program management and the integrity of the student financial assistance programs.

Structure of the Committees

We anticipate having two negotiating committees. The ultimate goal of negotiated rulemaking is to reach a consensus on proposed regulations through discussion and negotiation among interested and affected parties, including the Department of Education. With this in mind, we will conduct these negotiations within a structure that is designed to meet this goal fairly and efficiently. One negotiating committee will focus on student loan issues while the other will focus on other program issues. Our goal is to establish committees that are large enough to allow significantly affected parties to be represented while keeping the committees' size manageable.

Nominations of individuals from coalitions of individuals and organizations representing the constituencies identified below are strongly encouraged. Moreover, the Department encourages nominations of individuals who are actively involved in administering the Federal student financial assistance programs or whose interests are significantly affected by the regulations. The committees may also create subgroups on particular topics that would involve additional individuals who are not members of the committees. Individuals who are not selected as members of the committees will be able to attend the meetings, have

access to the individuals representing their constituency, and will also be able to participate in informal working groups on various issues between the meetings. The meetings will be open to the public.

The Department has identified the constituencies listed below as having interests that are significantly affected by the subject matter of the negotiated rulemakings. The Department anticipates that individuals representing each of these constituencies will participate as members of one or both of the negotiated rulemaking committees. These constituencies are:

- Students.
- Legal assistance organizations that represent students
- Financial aid administrators at institutions of higher education.
- Business officers and bursars at institutions of higher education and institutional servicers (including collection agencies).
- Institutions of higher education eligible to receive Federal assistance under Title III, Parts A and B and Title V of the HEA, which includes Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in Title III.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, non-profit institutions of higher education.
- Private, for-profit institutions of higher education.
- Guaranty agencies and guaranty agency servicers (including collection agencies).
- Lenders, secondary markets, and loan servicers.

While an individual selected to represent a constituency may be a representative of a group, institution, or industry participant, the individual will be expected to represent the interests of the entire constituency on the committee and to confer with other individuals and representatives of groups within that constituency.

- Nominations should include:
- The name of the nominee and a description of the interests that he or she represents.
 - Evidence of support from individuals or groups of the constituency that he or she will represent.
 - The nominee's commitment that he or she will actively participate in good

faith in the development of the proposed regulations.

Schedule for Negotiations

We will hold a total of three meetings of each committee, all of which will be held at the Department of Education in Washington, DC. The following is the tentative schedule for negotiations for the committees. This schedule is subject to change.

Meeting 1: Week of January 14, 2002

Meeting 2: Week of March 4, 2002

Meeting 3: Week of April 22, 2002

The committee will use electronic mail to exchange documents and discuss proposals between meetings.

The schedule outlined above is expected to allow sufficient time for us to provide the public with a 60-day comment period for the proposed regulations, as well as to provide sufficient time to address any issues raised in the comment period, while meeting the November 1 statutory deadline for publishing student financial assistance regulations.

Electronic Access to This Document

You may view this document, in Text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>.

To use the PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1-888-293-6498; or in the Washington, DC area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: <http://www.access.gpo.gov/nara/index.html>.

Program Authority: 20 U.S.C. 1098a.

Dated: December 3, 2001.

Rod Paige,

Secretary of Education.

[FR Doc. 01-30260 Filed 12-4-01; 8:45 am]

BILLING CODE 4000-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0134-1134; FRL-7112-9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri for the Doe Run primary lead smelters in Herculaneum and Glover, Missouri (Doe Run-Herculaneum and Doe Run-Glover). The SIP submitted by the state satisfies the applicable requirements under the Clean Air Act (CAA) and demonstrates attainment of the National Ambient Air Quality Standards (NAAQS) for lead for the Doe Run-Herculaneum area. Approval of this revision will ensure that the Federally approved requirements are current and consistent with state regulations and requirements. The revision for Doe Run-Glover merely reflects a change in ownership of the smelter. If EPA receives adverse comments, the comments will be addressed in the subsequent final rule.

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Written comments should be mailed to James F. Hirtz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: James Hirtz at (913) 551-7472, or E-Mail him at hirtz.james@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever, "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

Background and Submittal Information

- What is a SIP?
- What is the background for Doe Run-Herculaneum?
- What is the Federal Approval process for a SIP?
- What does Federal approval of a state regulation mean to me?
- What is being addressed in this document?

EPA's Proposed Actions

- Have the requirements for approval of a SIP revision been met under section 172 of the CAA?
- What actions are we proposing today?

Background and Submittal Information

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally enforceable SIP. Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Background for Doe Run-Herculaneum?

On June 3, 1986, EPA issued a call for a revision to the Missouri SIP in response to violations of the NAAQS for lead in the vicinity of the Doe Run primary lead smelter in Herculaneum, Missouri. Doe Run-Herculaneum is the largest primary lead smelter in the United States with a production capacity of 250,000 tons of refined lead per year. The NAAQS for lead is 1.5 micrograms (μg) of lead per cubic meter (m^3) of air averaged over a calendar quarter. The state submitted a SIP revision on September 6, 1990, and EPA granted limited approval for Missouri's 1990 SIP revision on March 6, 1992 (57 FR 8076), pending submission of a supplemental SIP revision meeting the applicable requirements (Part D of Title I of the CAA as amended in 1990).

A revised SIP meeting the part D requirements was subsequently submitted in 1994. The plan established June 30, 1995, as the date by which the Herculaneum area was to have attained compliance with the lead standard. However, the plan did not result in attainment of the standard, and observed lead concentrations in the Herculaneum area continued to show violations of the standard. Therefore, on August 15, 1997, after taking and responding to public comments, EPA published a document in the **Federal Register** finding that the Herculaneum nonattainment area had failed to attain the lead standard by the June 30, 1995, deadline (62 FR 43647).

On January 10, 2001, Missouri submitted a revised SIP to EPA for the Doe Run-Herculaneum area. The SIP revision was found complete on January 12, 2001. The SIP establishes August 14, 2002, as the attainment date for the area and satisfies the part D requirements of the CAA. The revised plan also contains a control strategy to address the violations of the NAAQS which occurred after implementation of the control measures in the 1995 SIP revision. EPA believes that the dispersion and receptor modeling demonstrate that the selected control measures will result in attainment of the NAAQS for lead.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Doe Run-Herculaneum

1. Control Strategy

As required by 40 CFR part 51, subpart N, each SIP must contain legally enforceable compliance schedules and provide for compliance as soon as practicable. The Doe Run-Herculaneum SIP calls for full implementation of the control strategy by July 31, 2002. Implementation of the control strategy will result in approximately a 99 percent reduction in fugitive lead emissions from sources that are modeled as contributing significantly to nonattainment in the Herculaneum area.

The SIP contains two regulatory documents: (1) A Missouri Department of Natural Resources (MDNR) lead rule, (10 CSR 10–6.120) adopted by Missouri Air Conservation Commission (MACC) on December 7, 2000, containing emission limits and a Work Practice Manual which specifies operating procedures for specific plant processes at the Doe Run-Herculaneum facility; and (2) an executed Consent Judgment between the state of Missouri, Missouri Department of Natural Resources (MDNR), and MACC with Doe Run-Herculaneum. This judgment sets forth the administrative requirements for the implementation of the control measures at the Doe Run-Herculaneum facility. The plan includes contingency measures to be implemented within 6 months following a violation of the lead standard, after the attainment date of August 14, 2002. The reader is referred to the EPA prepared technical support document for a more complete discussion of the specific control measures to be implemented in the SIP.

2. Attainment Demonstration

Section 192(a) of the CAA requires that SIPs must provide for attainment of the lead NAAQS as expeditiously as practicable but no later than five years from the date of an area's nonattainment designation. This five-year period also applies as the new attainment date following a finding of failure to attain the lead NAAQS. (See sections 179(d)(3), 172(a)(d), and 192(a).) MDNR submitted a revised SIP that met the part D requirements in 1994, and which established June 30, 1995, as the new attainment date for the Herculaneum area. Violations of the NAAQS for lead were still observed and EPA published a notice in the **Federal Register** on August 15, 1997, finding that the Herculaneum area failed to attain the lead standard. The determination became effective on September 14, 1997.

The SIP submitted established an attainment date of August 14, 2002, which is within the statutory five-year period. EPA has determined that the state's attainment date is as expeditious as practicable.

In support of the revision to the Doe Run-Herculaneum lead SIP, a dispersion and receptor modeling methodology was developed to predict ambient lead concentrations. The dispersion model that was chosen was the steady state EPA Gaussian plume Industrial Source Complex Short-Term model (ISCST3, version 99155). The receptor modeling that was chosen was Chemical Mass Balance (CMB) receptor model version 7. The CMB model was used to qualitatively evaluate the dispersion model to increase confidence in the modeling results and the control strategy.

The 2000 SIP revision emission inventory relies heavily on source testing and the utilization of the CMB receptor model to provide probable source contribution estimates (SCE) for the major source categories. These categories were defined by common chemistry of the source's particulate emissions. The model is a "best fit" statistical model that estimates the most probable source contribution by comparing the finger prints, or characteristics, of the emission sources with the measured ambient values.

Actual value dispersion modeling was conducted in order to (1) determine the model's ability to replicate actual lead concentrations monitored during the study, and thereby serve as a basis for developing future control strategies, and (2) provide a set of SCEs for reconciliation with those obtained from the CMB receptor model. The actual value modeling was conducted with the actual emission rates, stack parameters, and local meteorological data collected during the study period. The background value of 0.13 $\mu\text{g}/\text{m}^3$ was added to the predicted air dispersion concentrations. The maximum predicted concentration by the ISCST3 model, including background, is 1.456 $\mu\text{g}/\text{m}^3$, which is below the NAAQS for lead at 1.5 $\mu\text{g}/\text{m}^3$.

3. Emission Inventory and Air Quality Data

Section 172(c)(3) of the CAA requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area.

Development of a comprehensive and accurate emissions inventory was necessary to support modeling and control strategy efforts. An hourly

emissions inventory was developed in order to provide input to the ISCST3 dispersion model. These rates were estimated using equations developed from source testing at the facility or from published emission factors.

Speciated emissions data was necessary to provide input to the CMB receptor model. Where possible, these data were obtained during source sampling efforts to identify fugitive emission sources located at the facility. In other cases, it was obtained from grab samples collected at various locations within the facility or from representative sources.

The state submittal provides a historical summary of the air quality from 1982 through the second calendar quarter of 2000. The average quarterly ambient lead concentrations at several monitors continue to remain above the NAAQS. The reader is referred to the EPA prepared technical support document for a summary of ambient monitoring data collected for the Doe Run Herculaneum site.

4. Reasonably Available Control Measures (RACM) Including Reasonable Available Control Technology (RACT)

The submittal must contain provisions to assure that RACM (including RACT) are implemented (see section 172(c)(1) of the CAA). (See 57 FR 13498 and 57 FR 13560 dated April 1, 1992, for EPA's interpretation of the RACM and RACT requirements.) Section 172(c)(1) of the CAA requires the implementation of all RACM which include emissions reduction through the adoption of RACT as expeditiously as practicable for all areas in nonattainment to attain the national primary ambient air quality standard. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available to demonstrate attainment for the area. EPA believes that measures which do not advance the date for attainment need not be implemented.

In the previous SIP (1993), Doe Run-Herculaneum prepared a RACT/RACM evaluation, and the plant has not changed significantly nor is it expected to significantly increase its emissions through production increases. All RACT/RACM measures were implemented as part of the previous SIP. In addition, the requirements under 40 CFR part 63, subpart TTT, the Federal Maximum Achievable Control Technology (MACT) Standards for Primary Lead Smelters, now apply for Doe Run-Herculaneum. This MACT required the preparation and use of a

standard operating procedures manual for all baghouses used to control process, process fugitive, or fugitive dust emission sources for lead. We note that Missouri is currently in the process of addressing a number of issues relating to the delivery of lead concentrate to the Doe Run-Herculaneum facility for processing, and is considering measures to decrease or eliminate lead fugitive emissions from truck hauling. Missouri has analyzed the air quality impact of the delivery system (primarily involving the transport and unloading of concentrate from trucks) and has determined that the air quality impacts of fugitive emissions from this process are minimal. Missouri also reran the attainment demonstration modeling to determine the impact, if any, due to the contribution of fugitive emissions from the truck hauling operation. Missouri concluded that the air quality impact was insignificant, and did not impact the attainment demonstration. Missouri continues to address other environmental concerns relating to truck hauling, primarily relating to soil contamination. However, based on the state's conclusions that the air quality impacts are negligible, and therefore further air pollution controls would not expedite attainment, EPA does not believe that further consideration of the emissions associated with truck hauling is necessary for purposes of the CAA requirements regarding RACT/RACM. In light of the above MACT requirements as well as enforceable limitations for fugitive emissions and the installation of process controls imposed by the state rule and Consent Judgement referenced previously, it would be unnecessary for EPA to have Doe Run-Herculaneum reevaluated RACT/RACM requirements. An assessment of these control measures with dispersion and receptor modeling indicate no additional measures will expedite attainment.

5. Reasonable Further Progress (RFP)

Section 172(c)(2) of the CAA requires that the SIP must provide for RFP as defined in section 171(1) of the CAA. Section 171(1) defines RFP as annual incremental reductions in emissions of the relevant air pollutants as are required by Part D, or may reasonably be required by EPA to ensure attainment of the applicable NAAQS by the applicable date. Part D does not further require specific RFP measures for lead.

Doe Run-Herculaneum has demonstrated RFP as required by section 172(c)(2) of the CAA. For example, Doe Run-Herculaneum is under a compliance schedule, required by regulation and by the Consent

Judgement, for implementing (1) installation of emission control equipment; (2) enclosure and ventilation projects to reduce lead emissions; (3) process throughput restrictions and hours of operation limitation; (4) work practice standards; and (5) contingency measures. EPA does not believe that additional incremental reductions are needed to meet the RFP requirement, since all controls to reduce lead emissions are to be implemented within the year, and must be fully implemented by July 31, 2002. The Work Practice Manual establishes process limits and control requirements for the plant and provides a guide to plant operators on how to minimize emissions from certain plant operations. This manual was incorporated into the lead rule (10 CSR 10-6.120), and adopted by the MACC on December 7, 2000, with the effective date of the rule being March 30, 2001.

6. New Source Review (NSR)

Part D of Title I of the CAA requires that the submittal include a permit program for the construction and operation of new and modified major stationary sources. Missouri rule 10 CSSR 10-6.020 identifies the current specific descriptions of the lead nonattainment areas in Missouri, including the area in which the Doe Run facility is located. Rule 10 CSR 10-6.020 is utilized in conjunction with Missouri rule 10 CSR 10-6.060 which requires a permit for construction of, or major modification to, an installation with potential to annually emit one hundred (100) tons or more of a nonattainment pollutant, or a permit for a modification at a major source with potential to annually emit one thousand two hundred (1,200) pounds of lead. These rules have previously been approved by EPA as part of the SIP.

7. Contingency Measures

Pursuant to section 172(c)(9) of the CAA, contingency measures have been prepared that can be implemented if EPA determines that the nonattainment area has failed to make reasonable further progress or fails to attain the NAAQS by the statutory deadline.

The state submission specifies an attainment date for the Herculaneum area of August 14, 2002, as set in the state SIP. If the area has a violation of the NAAQS during this quarter (July 1 to September 30, 2002), or any quarter thereafter, the contingency controls will be implemented after Doe Run-Herculaneum is notified by EPA and/or MDNR. Contingency measures which include enclosures and installing additional process controls will be

implemented within 6 months following the calendar quarter in which the violation occurred.

In the event there is a second violation of the quarterly lead standard of $1.5 \mu\text{m}^3$, after implementation of the initial contingency measures, Doe Run-Herculaneum has also agreed to curtail production utilizing one of three emission and/or production curtailing methods: Method (1), reduce main non-stack emissions by 20 percent; Method (2), limit production to 50,000 short tons/quarter of refined lead produced; and, Method (3), adopt Method 1 and limit production of refined lead production based upon the following formula:

$$P = 50,000 + (500 \times (1 - A/E) \times 100)$$

P = refined lead production in short tons/quarter

A = The aggregate actual quarterly emissions from all fugitive and stack lead emission sources at the facility in tons; except from the main stack (30001)

E = the aggregate estimated quarterly emissions from all fugitive and stack lead emission sources at the facility in tons; except from the main stack (30001); where A/E can't be less than .8 or more than 1.0.

Doe Run-Herculaneum will also maintain current bids on the materials necessary to implement each contingency measure. Doe Run-Herculaneum also may substitute any such controls if Doe Run-Herculaneum can demonstrate to MDNR and EPA that the alternative control measures would equal or exceed controls in the current SIP. Changes to these contingency measures would require a public hearing at the state level, and EPA approval as a formal SIP revision. These measures will help ensure compliance with the lead NAAQS and meet the requirements of section 172(c)(9) of the CAA.

8. Enforceability

All measures and other elements in the SIP must be enforceable by the state and EPA (see sections 172(c)(6), and 110(a)(2)(A) of the CAA, and 57 FR 13556). The state submittal includes a Consent Judgement and the lead rule (10 CSR 10-6.120). The lead rule also incorporates a Work Practice Manual, which specifies operating procedures for specific plant processes.

The state submittal includes a Consent Judgment entered into by the state and the Company which contains all of the control and contingency measures with enforceable dates for implementation. Control measures employed by Doe Run-Herculaneum

involve engineering modifications to the facility which include: Enclosure projects, improved ventilation systems being routed to stacks, improved material handling conveyors, and installation of air pollution control equipment (baghouses). The Company expects to spend approximately \$8,500,000 on these projects to control and reduce fugitive air emissions of lead that are affecting the ambient air standard for lead in the Herculaneum area. These control measures will be implemented by July 31, 2002.

Doe Run-Glover

The Missouri SIP submission contains a state rule and a Consent Decree which pertain to the Doe Run Company's Glover lead smelter in Iron County, Missouri. Until 1998, this facility was owned by the ASARCO Company. Due to the change in ownership, the state found it necessary to revise a state rule and the Consent Decree which referred to the facility by ownership name.

The state rule, 10 CSR 10-6.120, "Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations," was revised in paragraph (2)(A) to change the owner name from ASARCO to Doe Run Company. No other revisions pertaining to this facility were made in this rule revision. This revision was adopted by the Missouri Air Conservation Commission on December 7, 2000, and became effective in the state on March 30, 2001.

There was also a SIP-approved Consent Decree for this facility with ASARCO. This Consent Decree was also revised to reflect the change in ownership and to update certain provisions. These changes included: (1) Recognizing that the required capital improvements made by ASARCO had indeed already been made; (2) adding language that will terminate the Consent Decree upon redesignation of the Glover area attainment with the understanding that a new enforceable agreement will be in place at that time to ensure continued operation of the controls. This is acceptable to EPA since a maintenance plan would be required prior to any redesignation of the area to attainment, and the maintenance plan would contain all requirements, including enforceable requirements of any document which replaces the Consent Decree, which are necessary to ensure continued attainment of the area for the lead NAAQS; and (3) provision was added which allows the Consent Decree to be modified if both parties agree, or if there is a change in ownership. These provisions were added to avoid having to go back to court to amend the Consent Decree.

EPA's Proposed Actions

Have the Requirements for Approval of a SIP Revision Been Met Under Section 172 of the CAA?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations and part D and is consistent with the guidance set forth in the "State Implementation Plans for Lead Nonattainment Areas; Addendum to the General Preamble for the Implementation of the Clean Air Act Amendments of 1990" (58 FR 67748).

What Actions Are We Proposing Today?

EPA is proposing to find that the Doe Run-Herculaneum nonattainment area SIP submitted by Missouri on January 10, 2001, meets the requirements of section 110, and part D of the CAA and 40 CFR part 51. EPA is also proposing to approve the SIP submission which relates to the Doe Run-Glover facility which is described above.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 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 governments, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), 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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 23, 2001.

Nat Scurry,

Acting Regional Administration, Region 7.
[FR Doc. 01-30102 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS
COMMISSION****47 CFR Part 73**

[DA 01-2753, MM Docket No. 01-325, RM-10136]

Television Broadcast Service; Green Bay, WI**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Green Bay 44, L.L.C., an applicant for a construction permit for a new television station operating on channel 44 at Green Bay, Wisconsin, requesting the substitution of Channel 50 for channel 44 at Green Bay. TV channel 50 can be allotted to Green Bay, Wisconsin, with a plus offset consistent with the criteria set forth in the Commission's Public Notice, released on November 22, 1999, DA 99-2605. The coordinates for channel 50+ at Green Bay are North Latitude 44-30-48 and West Longitude 88-00-24. However, since the community Green Bay is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this proposal. Pursuant to the provisions outlined in the Commission's Public Notice, we will not accept competing expressions of interest in the use of television channel 50+ at Green Bay.

DATES: Comments must be filed on or before January 21, 2002, and reply

comments on or before February 5, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Andrew S. Kersting, Fletcher, Heald & Hildreth, 11th Floor, 1300 North 17th Street, Arlington, Virginia 22209-3801 (Counsel for Green Bay 44, L.L.C.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-325, adopted November 29, 2001, and released November 30, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Wisconsin is amended by removing TV Channel 44 and adding TV Channel 50+ at Green Bay.

Federal Communications Commission.

Barbara A. Kreisman,
Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-30036 Filed 12-4-01; 8:45 am]

BILLING CODE 6712-01-P

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. 01-097-1]

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 regulations governing the importation of fruits and vegetables.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01-097-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-097-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01-097-1" on the subject line.

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 regulations governing the importation of fruits and vegetables, contact Ms. Cynthia Stahl, Program Analyst, Port Operations, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1236; (301) 734-5281. 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: Importation of Fruits and Vegetables.

OMB Number: 0579-0136.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, the control and eradication of plant pests. The Plant Protection Act authorizes the Department to carry out this mission.

The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for implementing the regulations that carry out the intent of the Act.

Under the regulations in 7 CFR 319.56 through 319.56-8, a number of fruits and vegetables may be imported into the United States, under specified conditions, from certain parts of the world. These fruits and vegetables include cole and mustard crops from Ecuador, El Salvador, Nicaragua, and Peru; rhubarb from Guatemala; parsley from Israel and Nicaragua; salicornia from Mexico; mint and rosemary from Nicaragua; Swiss chard from Peru; Belgian endive, chicory, and endive from Panama; pineapple from South Africa; cantaloupe, honeydew melon, and watermelon from Brazil and Venezuela; and peppers from Spain.

Before entering the United States, all of these fruits and vegetables are subject to inspection and disinfection at their port of first arrival to ensure that no plant pests are inadvertently brought into the United States. These precautions, along with other requirements, ensure that these items can be imported into the United States with minimal risk of introducing exotic plant pests such as fruit flies.

Allowing these fruits and vegetables to be imported requires the use of certain information collection activities, including the completion of import permits, phytosanitary inspection certificates, and fruit fly monitoring records.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 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 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 0.73227 hours per response.

Respondents: U.S. importers of fruits and vegetables and plant health officials of exporting countries.

Estimated annual number of respondents: 822.

Estimated annual number of responses per respondent: 2.2311.

Estimated annual number of responses: 1,834.

Estimated total annual burden on respondents: 1,343 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 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-30107 Filed 12-4-01; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01-104-1]

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 activities to prevent the introduction and spread of diseases and parasites harmful to honeybees.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01-104-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-104-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01-104-1" on the subject line.

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 exotic bee diseases and parasites, honeybees, and honeybee semen, contact Ms. Anissa Craghead, Regulatory Coordination Specialist, Regulatory Coordination Staff, PPQ, APHIS, 4700 River Road Unit 141, Riverdale, MD 20737, (301) 734-5311. 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: Exotic Bee Diseases and Parasites; Honeybees and Honeybee Semen.

OMB Number: 0579-0072.

Type of Request: Reinstatement of an information collection.

Abstract: The United States Department of Agriculture is responsible for preventing the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, and the introduction and spread of undesirable species or subspecies of honeybees.

The introduction and establishment of new honeybee diseases, parasites, and undesirable honeybee strains into the United States could cause multimillion dollar losses to American agriculture. Diseases or parasites can weaken or kill honeybees, causing substantial reductions in the production of honey and other honeybee products, as well as a reduction in pollination activity. Pollination is necessary for the production of many important crops, including forage, fruits, vegetables, and vegetable oils.

To protect the health of the U.S. honeybee population, we engage in a number of information collection activities designed to allow us to determine whether shipments of honeybees, honeybee semen, or bee-related items (such as beekeeping equipment) represent a possible risk of introducing exotic bee diseases,

parasites, or undesirable honeybee strains into the United States.

Our primary means of obtaining this vital information is requiring importers to apply to us for an import permit. The permit application provides us with information such as the amount of bee semen to be imported and the species or subspecies of honeybee from which the semen was collected; the country or locality of origin; and the intended port of entry in the United States.

We also require importers and shippers to adhere to a number of marking and shipping requirements that enable us to easily identify and process shipments of honeybees, honeybee semen, and other restricted articles when they arrive at U.S. ports of entry.

These information-gathering procedures help us prevent the entry of shipments that pose a potential health risk to the U.S. honeybee population.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities.

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 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 4.0625 hours per response.

Respondents: Importers and shippers of honeybees, honeybee semen, and other regulated articles.

Estimated annual number of respondents: 13.

Estimated annual number of responses per respondent: 1.23.

Estimated annual number of responses: 16.

Estimated total annual burden on respondents: 65 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 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-30109 Filed 12-4-01; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01-039-2]

Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to a demonstration project to eradicate and prevent the spread of the aquatic weed giant salvinia in the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. The environmental assessment provides a basis for our conclusion that the implementation of the demonstration project will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect these documents are requested to call (202) 690-2817 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Alan V. Tasker, National Weed Program Coordinator, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5225.

SUPPLEMENTARY INFORMATION:

Background

Giant salvinia (*Salvinia molesta*) is a free-floating aquatic fern, native to South America, with a tremendous growth rate and the potential to significantly affect water-reliant agricultural industries, recreation, and the ecology of freshwater habitats throughout much of the United States.

The Animal and Plant Health Inspection Service (APHIS) listed giant salvinia as a noxious weed in 1983. Under APHIS' regulations, no person may move giant salvinia into or through the United States, or interstate, unless he or she obtains a permit for the movement from APHIS.

In the past several years, giant salvinia has been detected in the United States, mostly in association with the nursery trade in aquatic plants. Generally, detections have been in small, confined sites and are currently contained or have been eradicated. Such detections have occurred in Alabama, Arizona, Florida, Hawaii, Indiana, Louisiana, Maryland, Missouri, North Carolina, South Carolina, Texas, and Virginia. Of more serious and immediate concern is the current infestation in the Toledo Bend Reservoir and the surrounding areas in Louisiana and eastern Texas. The Toledo Bend Reservoir infestation is a major one in a large body of water.

Because current efforts to eradicate giant salvinia in the Toledo Bend Reservoir and the surrounding areas in Louisiana and eastern Texas have been unsuccessful, APHIS has evaluated additional control methods available to help eradicate this noxious weed. These control methods include:

- An integrated control approach utilizing herbicides and mechanical, biological, and regulatory controls.
- A biological control program that requires no herbicide application.

On July 24, 2001, we published in the **Federal Register** (66 FR 38414-38415, Docket No. 01-039-1) a notice in which we announced the availability, for public review and comment, of an environmental assessment that examines the potential environmental effects of the giant salvinia control methods described above on the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. We solicited comments on the environmental assessment for 30 days ending on August 23, 2001. We received no comments by that date.

In this document, we are advising the public of APHIS' record of decision and finding of no significant impact regarding the use of the methods described above to control giant salvinia

in the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. This decision, which is based on the findings of the environmental assessment, will allow APHIS to begin giant salvinia control activities in the Toledo Bend Reservoir and surrounding areas.

The environmental assessment and finding of no significant impact may be viewed on the Internet at <http://www.aphis.usda.gov/ppd/es/ppqdocs.html>. You may request paper copies of the environmental assessment and finding of no significant impact by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies. The environmental assessment and finding of no significant impact are also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

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

Done in Washington, DC, this 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-30106 Filed 12-4-01; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01-099-1]

Draft Guidelines on Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs) (VICH Topic GL29) and Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms (VICH Topic GL30)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: The International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) has developed two draft guidelines titled "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" and "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms." These draft guidelines provide, respectively, recommendations for the management of the detection and investigation of the clinical effects of marketed veterinary medicinal products and the terminology used to describe veterinary medicinal products, animals, clinical signs, and associated body systems and organs in adverse event reports. Because the draft guidelines apply to pharmacovigilance and adverse event reporting on veterinary vaccines regulated by the Animal and Plant Health Inspection Service under the Virus-Serum-Toxin Act, we are requesting comments on the scope of each guideline and its provisions so that we may include any relevant public input on the drafts in the Agency's comments to the VICH Steering Committee.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 4, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01-099-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-099-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01-099-1" on the subject line.

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>.

You may request copies of the draft guidelines "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Update Summary Reports (PSUs)" and "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms" by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Center for Veterinary Biologics-Licensing and Policy Development, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737-1231; (301) 734-8245.

SUPPLEMENTARY INFORMATION: The International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) is a unique project conducted under the auspices of the Office International des Epizooties that brings together the regulatory authorities of the European Union, Japan, and the United States and representatives from the animal health industry in the three regions. The purpose of VICH is to harmonize technical requirements for veterinary products (both drugs and biologics). Regulatory authorities and industry experts from Australia and New Zealand participate in an observer capacity. The World Federation of the Animal Health Industry (COMISA, the Confederation Mondiale de L'Industrie de la Sante Animale) provides the secretarial and administrative support for VICH activities.

The United States Government is represented in VICH by the Food and Drug Administration (FDA) and the Animal and Plant Health Inspection Service (APHIS). The FDA provides expertise on veterinary drugs, while APHIS fills a corresponding role for veterinary biological products. As VICH members, APHIS and FDA participate in efforts to enhance harmonization and have expressed their commitment to seeking scientifically based harmonized technical requirements for the development of veterinary drugs and biological products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for veterinary drugs and biologics among regulatory agencies in different countries.

Two draft guidelines have been made available by the VICH Steering Committee for comments by interested

parties. The first draft guideline, "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" (VICH Topic GL29), is intended to provide general recommendations for the management of the detection and investigation of the clinical effects of marketed veterinary medicinal products. Because the draft guideline applies to some veterinary biological products regulated by APHIS under the Virus-Serum-Toxin Act—particularly with regard to adverse event reporting—we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

The second draft guideline, "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms" (VICH Topic GL30), is intended to provide a controlled list of terminology for describing clinical signs and associated body systems and organs for reporting an adverse event associated with the use of veterinary medicinal products. Again, because the draft guideline applies to some veterinary biological products regulated by APHIS under the Virus-Serum-Toxin Act—particularly with regard to ensuring that consistent terminology is used to describe an adverse event associated with the use of a veterinary medicinal product—we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

The two draft guidelines reflect, respectively, current APHIS thinking on the management of PSUs and the appropriate terminology for use in describing an adverse event concerning the use of veterinary biological products. In accordance with the VICH process, once a final draft of each document has been approved, the guideline will be recommended for adoption by the regulatory bodies of the European Union, Japan, and the United States. As with all VICH documents, each final guideline will not create or confer any rights for or on any person and will not operate to bind APHIS or the public. Further, the VICH guidelines specifically provide for the use of alternative approaches if those approaches satisfy applicable regulatory requirements.

Ultimately, APHIS intends to consider the VICH Steering Committee's final guidelines for use by U.S. veterinary biologics licensees, permittees, and applicants. In addition, we may consider the use of each final guideline as the basis for proposed amendments to

the regulations in 9 CFR chapter I, subchapter E (Viruses, Serums, Toxins, and Analogous Products: Organisms and Vectors). Because we anticipate that applicable provisions of the final versions of "Pharmacovigilance of Veterinary Medicinal Products: Management of Periodic Summary Update Reports (PSUs)" and "Pharmacovigilance of Veterinary Medicinal Products: Controlled List of Terms" may be introduced into APHIS' veterinary biologics regulatory program in the future, we encourage your comments on the draft guidelines.

Authority: 21 U.S.C. 151 *et seq.*

Done in Washington, DC, this 29th day of November 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-30108 Filed 12-4-01; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions and Corrections for the Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice and correction.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR part 217.5(d), the public shall be advised through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notice of decisions. Newspaper publication of notice of decisions is in addition to direct notice of decisions to those known to be interested in or affected by a specific decision. The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published on May 9, 2001, of principal newspapers to be utilized for publishing notice of proposed actions and of decisions subject to appeal under 36 CFR part 215. The list of newspapers to be used for 215 notice and decision is corrected.

DATES: Use of these newspapers for purposes of publishing legal notice of

decisions subject to appeal under 36 CFR part 217 and the use of the corrected newspaper listed under 36 CFR part 215 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT:

Norm Heintz, Acting Regional Appeals Coordinator, Southern Region, Planning, 1720 Peachtree Road, NW., Atlanta, Georgia 30309, Phone: 404-347-5235.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service Administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notice of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper. The following newspapers will be used to provide notice.

Southern Region

Regional Forester Decisions

Affecting National Forest System lands in more than one state of the 14 states of the Southern Region and the Commonwealth of Puerto Rico *Atlanta Journal*, published daily in Atlanta, GA.

Affecting National Forest System lands in only one state of the 14 states of the Southern Region and the Commonwealth of Puerto Rico or only one Ranger District will appear in the principal newspaper elected by the National Forest of that state or Ranger District.

National Forests in Alabama, Alabama

Forest Supervisor Decisions

Montgomery Advertiser, published daily in Montgomery, AL

District Ranger Decisions

Bankhead Ranger District: Northwest Alabamian, published weekly (Wednesday & Saturday) in Haleyville, AL
Conecuh Ranger District: The Andalusia Star News, published daily (Tuesday through Saturday) in Andalusia, AL
Oakmulgee Ranger District: The Tuscaloosa News, published daily in Tuscaloosa, AL
Shoal Creek Ranger District: The Anniston Star, published daily in Anniston, AL
Talladega Ranger District: The Daily Home, published daily in Talladega, AL
Tuskegee Ranger District: Tuskegee News, published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions

El Nuevo Dia, published daily in Spanish in San Juan, PR
San Juan Star, published daily in English in San Juan, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions

The Times, published daily in Gainesville, GA

District Ranger Decisions

Armuchee Ranger District: Walker County Messenger, published bi-weekly (Wednesday & Friday) in LaFayette, GA
Toccoa Ranger District: The News Observer published bi-weekly (Tuesday & Friday) in Blue Ridge, GA
Brasstown Ranger District: North Georgia News, published weekly (Wednesday) in Blairsville, GA
Tallulah Ranger District: Clayton Tribune, published weekly (Thursday) in Clayton, GA
Chattooga Ranger District:
Northeast Georgian, published twice weekly (Tuesday & Friday) in Cornelia, GA
Chieftain & Toccoa Record, published twice weekly (Tuesday & Friday) in Toccoa, GA
White County News Telegraph, published weekly (Thursday) in Cleveland, GA
The Dahlonega Nuggett, published weekly (Thursday) in Dahlonega, GA
Cohutta Ranger District: Chatsworth Times, published weekly (Wednesday) in Chatsworth, GA
Oconee Ranger District: Eatonton Messenger, published weekly (Thursday) in Eatonton, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions

Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)
Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties)

District Ranger Decisions

Ocoee-Hiwassee Ranger District: Polk County News, published weekly (Wednesday) in Benton, TN
Tellico-Hiwassee Ranger District: Monroe County Advocate, published tri-weekly (Wednesday, Friday and Sunday) in Sweetwater, TN
Nolichucky-Unaka Ranger District: Johnson City Press, published daily in Johnson City, TN
Watauga Ranger District: Johnson City Press, published daily in Johnson City, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions

Lexington Herald-Leader, published daily in Lexington, KY

District Ranger Decisions

Morehead Ranger District: Morehead News, published bi-weekly (Tuesday and Friday) in Morehead, KY

Stanton Ranger District: The Clay City Times, published bi-weekly (Thursday) in Stanton, KY

London Ranger District: The Sentinel-Echo, published tri-weekly (Monday, Wednesday, and Friday) in London, KY

Somerset Ranger District: Commonwealth-Journal, published daily (Sunday through Friday) in Somerset, KY

Stearns Ranger District: McCreary County Record, published weekly (Tuesday) in Whitley City, KY

Redbird Ranger District: Manchester Enterprise, published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida*Forest Supervisor Decisions*

The Tallahassee Democrat, published daily in Tallahassee, FL

District Ranger Decisions:

Apalachicola Ranger District: The Liberty Journal, published weekly (Wednesday) in Bristol, FL

Lake George Ranger District: The Ocala Star Banner, published daily in Ocala, FL

Osceola Ranger District: The Lake City Reporter, published daily (Monday-Saturday) in Lake City, FL

Seminole Ranger District: The Daily Commercial, published daily in Leesburg, FL

Wakulla Ranger District: The Tallahassee Democrat, published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina*Forest Supervisor Decisions*

The State, published daily in Columbia, SC

District Ranger Decisions

Enoree Ranger District: Newberry Observer, published tri-weekly (Monday, Wednesday, and Friday) in Newberry, SC

Andrew Pickens Ranger District: The Daily Journal, published daily in Seneca, SC

Long Cane Ranger District: The Augusta Chronicle, published daily in Augusta, GA

Wambaw Ranger District: Post and Courier, published daily in Charleston, SC

Witherbee Ranger District: Post and Courier, published daily in Charleston, SC

George Washington and Jefferson National Forests, Virginia and West Virginia*Forest Supervisor Decisions*

Roanoke Times, published daily in Roanoke, VA

District Ranger Decisions

Lee Ranger District: Shenandoah Valley Herald, published weekly (Wednesday) in Woodstock, VA

Warm Springs Ranger District: The Recorder, published weekly (Thursday) in Monterey, VA

James River Ranger District: Virginian Review, published daily (except Sunday) in Covington, VA

Deerfield Ranger District: Daily News Leader, published daily in Staunton, VA

Dry River Ranger District: Daily News Record, published daily (except Sunday) in Harrisonburg, VA

New River Ranger District: Roanoke Times, published daily in Roanoke, VA

Glenwood/Pedlar Ranger District: Roanoke Times, published daily in Roanoke, VA

New Castle Ranger District: Roanoke Times, published daily in Roanoke, VA

Mount Rogers National Recreation Area: Bristol Herald Courier, published daily in Bristol, VA

Clinch Ranger District: Kingsport-Times News, published daily in Kingsport, TN

Kisatchie National Forest, Louisiana*Forest Supervisor Decisions*

The Town Talk, published daily in Alexandria, LA

District Ranger Decisions

Caney Ranger District: Minden Press Herald, published daily in Minden, LA

Homer Guardian Journal, published weekly (Wednesday) in Homer, LA

Catahoula Ranger District: The Town Talk, published daily in Alexandria, LA

Calcasieu Ranger District: The Town Talk, published daily in Alexandria, LA

Kisatchie Ranger District: Natchitoches Times, published daily (Tuesday-Friday and on Sunday) in Natchitoches, LA

Winn Ranger District: Winn Parish Enterprise, published weekly (Wednesday) in Winnfield, LA

Land Between the Lakes National Recreation Area, Kentucky and Tennessee*Area Supervisor Decisions*

The Paducah Sun, published daily in Paducah, KY

National Forests in Mississippi, Mississippi*Forrest Supervisor Decisions:*

Clarion-Ledger, published daily in Jackson, MS

District Ranger Decisions

Bienville Ranger District: Clarion-Ledger, published daily in Jackson, MS

Chickasawhay Ranger District: Clarion-Ledger, published daily in Jackson, MS

Delta Ranger District: Clarion-Ledger, published daily in Jackson, MS

De Soto Ranger District: Clarion-Ledger, published daily in Jackson, MS

Holly Springs Ranger District: Clarion-Ledger, published daily in Jackson, MS

Homochitto Ranger District: Clarion-Ledger, published daily in Jackson, MS

Tombigbee Ranger District: Clarion-Ledger, published daily in Jackson, MS

National Forests in North Carolina, North Carolina*Forest Supervisor Decisions*

The Asheville Citizen-Times, published daily in Asheville, NC

District Ranger Decisions:

Appalachian Ranger District: The Asheville Citizen-Times, published daily in Asheville, NC

Cheoah Ranger District: Graham Star, published weekly (Thursday) in Robbinsville, NC

Croatan Ranger District: The Sun Journal, published weekly (Sunday through Friday) in New Bern, NC

Grandfather Ranger District: McDowell News, published daily in Marion, NC

Highlands Ranger District: The Highlander, published weekly (mid May-mid Nov Tues & Fri; mid Nov-mid May Tues only) in Highland, NC

Pisgah Ranger District: The Asheville Citizen-Times, published daily in Asheville, NC

Tusquitee Ranger District: Cherokee Scout, published weekly (Wednesday) in Murphy, NC

Uwharrie Ranger District: Montgomery Herald, published weekly (Wednesday) in Troy, NC

Wayah Ranger District: The Franklin Press, published bi-weekly (Wednesday and Friday) in Franklin, NC

Ouachita National Forest, Arkansas and Oklahoma*Forest Supervisor Decisions*

Arkansas Democrat-Gazette, published daily in Little Rock, AR

District Ranger Decisions

Caddo Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR

Fourche Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR

Jessieville/Winona Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR

Mena/Oden Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR

Poteau/Cold Springs Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR

Womble Ranger District: Arkansas Democrat-Gazette, published daily in Little Rock, AR

Choctaw Ranger District: Tulsa World, published daily in Tulsa, OK

Kiamichi Ranger District: Tulsa World, published daily in Tulsa, OK

Tiak Ranger District: Tulsa World, published daily in Tulsa, OK

Ozark-St. Francis National Forest, Arkansas*Forest Supervisor Decisions*

The Courier, published daily (Tuesday through Sunday) in Russellville, AR

District Ranger Decisions

Sylamore Ranger District: Stone County Leader, published weekly (Tuesday) in Mountain View, AR

Buffalo Ranger District: Newton County Times, published weekly in Jasper, AR

Bayou Ranger District: The Courier, published daily (Tuesday through Sunday) in Russellville, AR

Pleasant Hill Ranger District: Johnson County Graphic, published weekly (Wednesday) in Clarksville, AR

Boston Mountain Ranger District: Southwest Times Record, published daily in Fort Smith, AR

Magazine Ranger District: Southwest Times Record, published daily in Fort Smith, AR
St. Francis Ranger District: The Daily World, published daily (Sunday through Friday) in Helena, AR

National Forests and Grasslands in Texas, Texas

Forest Supervisor Decisions

The Lufkin Daily News, published daily in Lufkin, TX

District Ranger Decisions

Angelina National Forest: The Lufkin Daily News, published daily in Lufkin, TX

Davy Crockett National Forest: The Lufkin Daily News, published daily in Lufkin, TX

Sabine National Forest: The Lufkin Daily News, published daily in Lufkin, TX

Sam Houston National Forest: The Courier, published daily in Conroe, TX

Caddo & LBJ National Grasslands: Denton Record-Chronicle, published daily in Denton, TX

The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published on May 9, 2001, of principal newspapers to be utilized for publishing notices of proposed actions and of decisions subject to appeal under 36 CFR 215. The list of newspapers to be used for 215 notice and decision is corrected as follows:

National Forests in Alabama, Alabama

District Ranger Decisions:

Bankhead Ranger District:
Correct:

Northwest Alabamian, published weekly (Wednesday & Saturday) in Haleyville, AL

Cherokee National Forest, Tennessee

District Ranger Decisions

Tellico-Hiwassee Ranger District:
Correct:

Monroe County Advocate, published tri-weekly (Wednesday, Friday, and Sunday) in Sweetwater, TN

Dated: November 28, 2001.

David G. Holland,

Deputy Regional Forester.

[FR Doc. 01-30077 Filed 12-4-01; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No.1202]

Grant of Authority for Subzone Status, United Chemi-Con, Inc. (Aluminum Electrolytic Capacitors), Lansing, North Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as

amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for “. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Piedmont Triad Partnership, grantee of Foreign-Trade Zone 230 (Greensboro, North Carolina), has made application for authority to establish special-purpose subzone status at the aluminum electrolytic capacitor manufacturing plant of United Chemi-Con, Inc., located in Lansing, North Carolina (FTZ Docket 25-2001, filed 6-18-2001);

Whereas, notice inviting public comment was given in the **Federal Register** (66 FR 33948, 6-26-2001); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the aluminum electrolytic capacitor manufacturing plant of United Chemi-Con, Inc., located in Lansing, North Carolina (Subzone 230A), at the location described in the application, subject to the FTZ Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 21st day of November 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 01-30171 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-866]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final determination of sales at less than fair value.

EFFECTIVE DATE: December 5, 2001.

SUMMARY: We published in the **Federal Register** our final determination for the investigation of certain folding gift boxes from the People's Republic of China on November 20, 2001. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 50408 (November 20, 2001). We are amending our final determination to correct ministerial errors discovered by Red Point Paper Products, Ltd.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or George Callen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0410 or (202) 482-0180, respectively.

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 Tariff Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to 19 CFR part 351 (2000).

Background

On November 13, 2001, the Department determined that certain folding gift boxes from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 50408 (November 20, 2001) (*Final Determination*). On November 19, 2001, respondent Red Point Paper Products Ltd. (Red Point) timely filed an

allegation that the Department had made two ministerial errors in its final determination.

Red Point's submission alleges the following errors: (1) The Department inadvertently used the value of labor for 1998 rather than 1999 as published on the Department's web site, and (2) the Department inadvertently deducted movement expenses incurred by Red Point's unaffiliated customer from the export price.

On November 26, 2001, Harvard Folding Box Company and Field Container Company, LP (collectively, the petitioners), submitted comments rebutting Red Point's ministerial-error allegations. The petitioners argue that Red Point's allegations are untimely arguments for methodological changes rather than ministerial-error allegations. With regard to labor valuation, the petitioners argue that Red Point's allegation is an untimely argument as to which surrogate value the Department should use to value labor inputs. With regard to movement expenses, the petitioners contend that the Department used the same methodology in the *Final Determination* as it used in the *Preliminary Determination* and that Red Point did not comment upon the Department's deduction of these movement expenses in its case brief. The petitioners contend that Red Point is asking the Department, under the guise of correcting a ministerial error, to change a clearly articulated methodology and argue that the Department should not do so because the alleged errors were methodological choices, not ministerial errors.

No other party alleged that there were ministerial errors in the *Final Determination* or commented about Red Point's allegations.

Scope of the Investigation

The products covered by this investigation are certain folding gift boxes. Certain folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. Certain folding gift boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. The scope of the investigation excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope of the investigation also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Certain folding gift boxes are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The subject merchandise includes certain folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separate pieces. Certain folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The scope of the investigation excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers). The scope of the investigation also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

Imports of the subject merchandise are currently classified under *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings 4819.20.00.40 and 4819.50.40.60. These subheadings also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Ministerial Error

The Department's regulations define a ministerial error as one involving "addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication or the like, and any other similar type of unintentional error which the Secretary considers ministerial." See 19 CFR 351.224(f).

After reviewing Red Point's allegations we have determined, in accordance with 19 CFR 351.224, that the *Final Determination* includes ministerial errors. We agree with Red Point that we should not have deducted the movement expenses incurred by Red Point's unaffiliated customer. These expenses, which include international

freight, marine insurance, U.S. inland freight, U.S. brokerage & handling expenses, and U.S. Customs duties, were incurred by Lindy Bowman, not Red Point. See Red Point verification report dated September 13, 2001, at page 7 and Lindy Bowman verification report dated September 17, 2001, at page 4. We should have only deducted those movement expenses incurred by Red Point, not those incurred by its U.S. customer. Contrary to the petitioners' assertion, this constitutes an unintentional error on our part. Accordingly, we have corrected this ministerial error.

We also agree with Red Point that we inadvertently used the labor value for 1998 in the *Final Determination*. The labor value for 1999 to which Red Point refers was published on the Department's website in September 2001 and, therefore, was available for our use in the *Final Determination*. See <http://ia.ita.doc.gov/wages/>. Furthermore, we disagree with the petitioners' characterization that Red Point's allegation is an untimely argument as to which surrogate value the Department should use for labor. The Department develops the surrogate value for the applicable labor calculations; it is not submitted by interested parties (as are most surrogate values). Finally, the revised labor rate corresponds more closely in time with the period of investigation than the surrogate value we used in the *Preliminary Determination*. Thus, we should have used the revised surrogate value for labor in the *Final Determination*. Our use of the same labor rate we used in the *Preliminary Determination* was unintentional. Accordingly, we have corrected this ministerial error.

Amended Final Determination

In accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of certain folding gift boxes from the People's Republic of China. For this amended final determination, we did not deduct the aforementioned movement expenses incurred by Lindy Bowman from the U.S. price and we have used the revised surrogate value for labor. The revised final weighted-average dumping margins for Red Point is 8.90 percent. The weighted-average dumping margins for all other companies remain unchanged.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the United States Customs

Service (Customs) to continue suspending liquidation on all imports of the subject merchandise from the People's Republic of China. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which normal value exceeds the export price as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with section 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: November 29, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01-30169 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-807]

Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 5, 2001.

SUMMARY: The Department of Commerce is extending the time limit for completion of the preliminary results of the administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. The period of review is April 1, 2000, through March 31, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood at (202) 482-0656 or (202) 482-3874, respectively, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the

effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

SUPPLEMENTARY INFORMATION: On May 23, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. The period of review is April 1, 2000, through March 31, 2001. The review covers three producers/exporters of the subject merchandise to the United States.

Pursuant to section 751(a)(3)(A) of the Act, the Department shall make a preliminary determination in an administrative review of an antidumping order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend the 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period. Because it is not practicable to complete this administrative review within the time limit mandated by section 751(a)(3)(A) of the Act, the Department is extending the time limit for completion of the preliminary results. This review involves a number of complicated issues including high inflation in Turkey during the period of review. Because we need additional time for our analysis, we have extended the deadline until April 30, 2002.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)) and 19 CFR 351.213(h)(2).

Dated: November 29, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01-30168 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Connecticut, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite

4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street NW., Washington, DC.

Docket Number: 01-017. **Applicant:** University of Connecticut, Storrs, CT 06269-3136. **Instrument:** Electron Microscope, Model JEM-2010. **Manufacturer:** JEOL Ltd., Japan. **Intended Use:** See notice at 66 FR 55913, November 5, 2001. **Order Date:** December 8, 2001.

Docket Number: 01-019. **Applicant:** University of California, Berkeley, CA 94720. **Instrument:** Electron Microscope, Model CM200 FEG. **Manufacturer:** FEI Company, The Netherlands. **Intended Use:** See notice at 66 FR 55913, November 5, 2001. **Order Date:** May 23, 2001.

Docket Number: 01-021. **Applicant:** Baylor College of Medicine, Houston, TX 77030. **Instrument:** Electron Microscope, Model JEM-2010F and Accessories. **Manufacturer:** JEOL Ltd., Japan. **Intended Use:** See notice at 66 FR 55914, November 5, 2001. **Order Date:** September 20, 2001.

Comments: None received. **Decision:** Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. **Reasons:** Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01-30170 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Deep Seabed Mining: Proposed Extension and Revision of Exploration License

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Receipt of Application to Extend Deep Seabed Mining Exploration License USA-1 and Revise Exploration Plan.

SUMMARY: On September 20, 2001, Ocean Minerals Company (OMCO) submitted to the National Oceanic and Atmospheric Administration (NOAA) an application for a five-year extension of Deep Seabed Mining Exploration License USA-1, pursuant to sections 105(c)(2) and 107(a) of the Deep Seabed Hard Mineral Resources (DSHMRA, 30 U.S.C. 1401 *et seq.*) and 15 CFR 970.515. OMCO has also proposed related exploration plan revisions.

NOAA has determined that this proposal constitutes an application for a major but not a significant revision to the exploration plan and to the terms, conditions, and restrictions (TCRs) of the license under 15 CFR 970.513, and is commencing public review procedures as prescribed in 15 CFR 970.514(b). Pursuant to the DSHMRA and 15 CFR part 970, on August 29, 1984, NOAA issued a license to OMCO to engage in deep seabed mining exploration in the Clarion-Clipperton Fracture Zone area of the Northeastern Equatorial Pacific Ocean. Since that time, the licensee, subject to the TCRs of the license and the regulatory requirements, has diligently pursued the activities approved in the exploration plan of the license, directed toward application for a commercial permit.

In 1991, NOAA approved a revision to the exploration plan for USA-I and extended the original license for an additional five years. This exploration plan is a two-phased plan. During Phase I, OMCO's activities are designed to monitor legal, technical and political developments pertaining to deep seabed mining; analyze environmental and nodule resource data; and, reevaluate the potential for commercial mining. During Phase II OMCO's activities are directed toward survey operations, upgrading the exploration ship and equipment, and delineation of the ore body.

OMCO is applying for a five-year extension of the license based on significantly changed market conditions, pursuant to 15 CFR 970.515. Section 107(a) of the DSHMRA provides that the Administration shall extend a license, on terms consistent with the Act and NOAA's regulations, if the licensee has complied with the license and associated exploration plan. Section 105(c)(2) of the DSHMRA authorizes NOAA to approve a license revision upon a finding that the revision will comply with the requirements of the Act and implementing regulations. A revision to the exploration plan is being requested to reflect accomplishment of objectives in Phase I of OMCO's current plan. For example, the substantial amounts of data received as a result of

the exchange of exploration data between consortia during settlement of overlapping sites is sufficient to determine if and at which locations attractive mine sites occur in USA-I. This allows survey operations and upgrading of the mine ship and equipment to be delayed until Phase II when detailed ore body delineation occurs in conjunctions with the initiation of scale-up pilot plant operations.

This revision requests an extension of the term of the license until 2005 and proposes to extend Phase I for five years and to delay the initiation of the survey operations, ore body delineation and upgrade ship and equipment activities of Phase II. During the five-year extension, OMCO will monitor domestic and international activities in the scientific, engineering, and financial fields that are important to the future development of ocean mining. This will help to maintain industry viability and provide information necessary to assess the timeliness for inauguration of Phase II. OMCO will also continue to monitor new environmental studies and data collection.

Subject to 15 CFR 971.802, interested persons will be permitted to examine the application for extension at the below listed address.

DATES: Individuals or organizations wishing to submit comments on the application should do so by February 4, 2002.

ADDRESSES: Comments should be made to John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301-713-3155 extension 195, e-mail john.king@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Joseph Flanagan, Coastal Programs Division (NORM/3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. (301) 713-3155, x201, e-mail joseph.flanagan@noaa.gov.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Dated: November 28, 2001.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce.

[FR Doc. 01-30150 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

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.gov>. For information on embargoes and quota re-openings, 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 import restraint limits for textile products, produced or manufactured in Hong Kong and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Pursuant to the provisions of the ATC, the third stage of the integration of textile and apparel products into the General Agreement on Tariffs and Trade 1994 will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories have been modified or eliminated and certain limits have been revised. Integrated products will no longer be subject to quota.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits. These limits have been increased, variously, for adjustments permitted under the flexibility provisions of the ATC.

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). Information regarding the 2002 CORRELATION will be published in the **Federal Register**.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Hong Kong and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200-220, 224-227, 300-326, 360-363, 369(1) ¹ , 369pt. ² , 400-414, 469pt. ³ , 603, 604, 611-620, 624-629 and 666pt. ⁴ , as a group.	172,957,184 square meters equivalent.
Sublevels in Group I	
219	49,169,630 square meters.
218/225/317/326	81,007,688 square meters of which not more than 4,461,587 square meters shall be in Category 218(1) ⁵ (yarn dyed fabric other than denim and jacquard).
611	7,752,255 square meters.
617	4,891,128 square meters.
Group I subgroup	
200, 226/313, 314, 315, 369(1) and 604, as a group.	132,355,033 square meters equivalent.
Within Group I subgroup	
200	423,920 kilograms.
226/313	88,199,757 square meters.

Category	Twelve-month restraint limit
314	23,786,416 square meters
315	11,760,084 square meters.
369(1) (shoptowels)	966,440 kilograms.
604	290,994 kilograms.
Group II	
237, 239pt. ⁶ , 332-348, 351, 352, 359(1) ⁷ , 359(2) ⁸ , 359pt. ⁹ , 433-438, 440-448, 459pt. ¹⁰ , 633-648, 651, 652, 659(1) ¹¹ , 659(2) ¹² , 659pt. ¹³ , and 443/444/643/644(1), as a group.	894,539,952 square meters equivalent.
Sublevels in Group II	
237	1,421,853 dozen.
331pt. ¹⁴	1,596,885 dozen pairs.
333/334	335,135 dozen.
335	355,572 dozen.
338/339 ¹⁵ (shirts and blouses other than tank tops and tops, knit).	3,022,255 dozen.
338/339(1) ¹⁶ (tank tops and knit tops).	2,270,635 dozen.
340	2,894,127 dozen.
345	509,794 dozen.
347/348	7,007,815 dozen of which not more than 6,917,815 dozen shall be in Categories 347-W/348-W ¹⁷ ; and not more than 5,242,583 dozen shall be in Category 348-W.
352	8,363,147 dozen.
359(1) (coveralls, overalls and jumpsuits).	712,967 kilograms.
359(2) (vests)	1,485,971 kilograms.
433	11,176 dozen.
434	11,996 dozen.
435	79,563 dozen.
436	103,627 dozen.
438	851,068 dozen.
442	99,127 dozen.
443	65,381 numbers.
444	44,887 numbers.
445/446	1,406,700 dozen.
447/448	70,743 dozen.
631pt. ¹⁸	145,526 dozen pairs.
633/634/635	1,503,252 dozen of which not more than 562,250 dozen shall be in Categories 633/634; and not more than 1,154,327 dozen shall be in Category 635.
638/639	5,073,739 dozen.
641	876,720 dozen.
644	53,524 numbers.
645/646	1,390,617 dozen.
647	656,465 dozen.

Category	Twelve-month restraint limit
648	1,249,850 dozen of which not more than 1,235,060 dozen shall be in Category 648-W ¹⁹
652	5,737,511 dozen.
659(1) (coveralls, overalls and jumpsuits).	788,016 kilograms.
659(2) (swimsuits) ...	333,759 kilograms.
443/444/643/644(1) (made-to-measure suits).	62,109 numbers.
Group II subgroup	
336, 341, 342, 351, 636, 640, 642 and 651, as a group.	165,774,989 square meters equivalent.
Within Group II subgroup	
336	274,617 dozen.
341	2,929,522 dozen.
342	623,158 dozen.
351	1,237,298 dozen.
636	369,586 dozen.
640	1,110,296 dozen.
642	293,909 dozen.
651	400,253 dozen.
Group III—only 852 ...	10,686,085 square meters equivalent.
Limits not in a group	
845(1) ²⁰ (sweaters made in Hong Kong).	1,136,476 dozen.
845(2) ²¹ (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	2,720,291 dozen.
846(1) ²² (sweaters made in Hong Kong).	183,779 dozen.
846(2) ²³ (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	442,838 dozen.

¹Category 369(1): only HTS number 6307.10.2005.

²Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6303.91.0030, 6303.91.0050, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040, 9404.90.9505 and HTS number in 369(1).

³ Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

⁴ Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

⁵ Category 218(1): all HTS numbers except 5209.42.0060, 5209.42.0080, 5211.42.0060, 5211.42.0080, 5514.32.0015 and 5516.43.0015.

⁶ Category 239pt.: only HTS number 6209.20.5040 (diapers).

⁷ Category 359(1): only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

⁸ Category 359(2): only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

⁹ Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060, 6505.90.2545 and HTS numbers in 359(1) and 359(2).

¹⁰ Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

¹¹ Category 659(1): only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

¹² Category 659(2): only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

¹³ Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510, 6406.99.1540 and HTS numbers in 659(1) and 659(2).

¹⁴ Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

¹⁵ Categories 338/339: all HTS numbers except 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

¹⁶ Category 338/339(1): only HTS numbers 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

¹⁷ Category 347-W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3030, 6203.42.4015, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6210.40.9033, 6211.20.3810 and 6211.32.0040; Category 348-W: only HTS numbers 6204.19.8030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4065, 6204.69.6010, 6210.50.9060, 6211.20.1550, 6211.42.0030 and 6217.90.9050.

¹⁸ Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

¹⁹ Category 648-W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.9030, 6204.69.9030, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

²⁰ Category 845(1): only HTS numbers 6103.29.2074, 6104.29.2079, 6110.90.9024, 6110.90.9042 and 6117.90.9015.

²¹ Category 845(2): only HTS numbers 6103.29.2070, 6104.29.2077, 6110.90.9022 and 6110.90.9040.

²² Category 846(1): only HTS numbers 6103.29.2068, 6104.29.2075, 6110.90.9020 and 6110.90.9038.

²³ Category 846(2): only HTS numbers 6103.29.2066, 6104.29.2073, 6110.90.9018 and 6110.90.9036.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated November 28, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products to be integrated into the General Agreement on Tariffs and Trade 1994 on January 1, 2002 (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

The conversion factors for merged Categories 333/334, 633/634/635 and 638/639 are 33, 33.90 and 13, respectively. The conversion factor for Category 239pt. is 8.79.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 01-30045 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for 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

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 5, 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 re-openings, 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 Category 335 is being increased for special swing from Group II, reducing the limit for Group II to account for the special swing being applied to Category 335.

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 29, 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 December 5, 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
Level in Group I	
335	161,362 dozen.
Group II	
200-227, 300-326, 332, 359-O ² , 360, 362, 363, 369-O ³ , 400-414, 434- 438, 440, 442, 444, 448, 459pt. ⁴ , 464, 469pt. ⁵ , 600- 607, 613-629, 644, 659-O ⁶ , 666, 669-O ⁷ , 670-O ⁸ , 831, 833-838, 840-846, 850-858 and 859pt. ⁹ , as a group.	253,535,513 square meters equivalent.

¹ The limits have not been adjusted to account for any imports exported after December 31, 2000.

² Category 359-O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359-C); and 6406.99.1550 (359pt.).

³ Category 369-O: all HTS numbers except 6307.10.2005 (Category 369-S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

⁴ Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

⁵ Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

⁶ Category 659-O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659-C); 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 (Category 659pt.).

⁷ Category 669-O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669-P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

⁸ Category 670-O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670-L).

⁹ 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.01-30046 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Poland

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

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.gov>. For information on embargoes and quota re-openings, 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 import restraint limits for textile products, produced or manufactured in Poland and exported during the period January 1, 2002 through December 31, 2002 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 2002 period.

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). Information regarding the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
335	292,701 dozen.
338/339	3,152,180 dozen.
410	2,876,059 square meters.
433	20,310 dozen.
434	11,078 dozen.
435	14,496 dozen.
443	241,589 numbers.
611	9,009,609 square meters.
645/646	461,570 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated October 26, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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. 01-30047 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.

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.gov>. For information on embargoes and quota re-openings, 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 import restraint limits for textile products, produced or manufactured in the Slovak Republic and exported during the period January 1, 2002 through December 31, 2002 are based on limits notified to the Textiles Monitoring Body pursuant to the

Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

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). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in the Slovak Republic and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002 in excess of the following limits:

Category	Twelve-month restraint limit
410	444,338 square meters.
433	12,410 dozen.
435	18,745 dozen.
443	103,679 numbers.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated October 27, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that

these actions fall within the foreign affairs exception of 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. 01-30048 Filed 12-4-01; 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 Taiwan

November 29, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, 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 re-openings, 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 carryforward, special shift and the partial undoing of special shift.

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 66 FR 11003, published on February 21, 2001.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 29, 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 February 15, 2001, 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 Taiwan and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 5, 2001, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement:

Category	Twelve-month limit ¹
Group I	
200-224, 225/317/ 326, 226, 227, 229, 300/301/607, 313-315, 360- 363, 369-L/670-L/ 870 ² , 369-S ³ , 369-O ⁴ , 400-414, 464-469, 600- 606, 611, 613/614/ 615/617, 618, 619/ 620, 621, 623, 624, 625/626/627/ 628/629, 665, 666, 669-P ⁵ , 669-T ⁶ , 669-O ⁷ , 670-H ⁸ and 670-O ⁹ , as a group.	637,647,295 square meters equivalent.
Sublevels in Group I 225/317/326	44,029,602 square meters.
619/620	16,298,603 square meters.
625/626/627/628/629	21,208,333 square meters.

Category	Twelve-month limit ¹
Group II	
237, 239, 330-332, 333/334/335, 336, 338/339, 340-345, 347/348, 349, 350/ 650, 351, 352/652, 353, 354, 359-C/ 659-C ¹⁰ , 359-H/ 659-H ¹¹ , 359- O ¹² , 431-444, 445/446, 447/448, 459, 630-632, 633/634/635, 636, 638/639, 640, 641-644, 645/646, 647/648, 649, 651, 653, 654, 659- S ¹³ , 659-O ¹⁴ , 831-844 and 846- 859, as a group	748,129,292 square meters equivalent.
Sublevels in Group II	
331	452,617 dozen pairs.
338/339	1,048,319 dozen.
345	138,156 dozen.
347/348	1,368,978 dozen of which not more than 1,164,527 dozen shall be in Cat- egories 347-W/348- W ¹⁵
435	27,683 dozen.
438	30,823 dozen.
445/446	147,084 dozen.
631	5,615,350 dozen pairs.
647/648	5,602,291 dozen of which not more than 5,339,114 dozen shall be in Cat- egories 647-W/648- W ¹⁶ .
Within Group II Sub- group	
351	333,765 dozen.
447/448	22,728 dozen.
651	526,834 dozen.

¹The limits have not been adjusted to account for any imports exported after December 31, 2000.

²Category 870; Category 369-L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905; Category 670-L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907.

³Category 369-S: only HTS number 6307.10.2005.

⁴Category 369-O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905 (Category 369-L); and 6307.10.2005 (Category 369-S).

⁵Category 669-P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

⁶Category 669-T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

⁷Category 669-O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669-P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669-T).

⁸Category 670-H: only HTS numbers 4202.22.4030 and 4202.22.8050.

⁹Category 670-O: all HTS numbers except 4202.22.4030, 4202.22.8050 (Category 670-H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670-L).

¹⁰Category 359-C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

¹¹Category 359-H: only HTS numbers 6505.90.1540 and 6505.90.2060; 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.

¹²Category 359-O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359-C); 6505.90.1540 and 6505.90.2060 (Category 359-H).

¹³Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

¹⁴Category 659-O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010 (Category 659-C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659-S).

¹⁵Category 347-W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348-W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

¹⁶Category 647-W: only HTS numbers
 6203.23.0060, 6203.23.0070, 6203.29.2030,
 6203.29.2035, 6203.43.2500, 6203.43.3500,
 6203.43.4010, 6203.43.4020, 6203.43.4030,
 6203.43.4040, 6203.49.1500, 6203.49.2015,
 6203.49.2030, 6203.49.2045, 6203.49.2060,
 6203.49.8030, 6210.40.5030, 6211.20.1525,
 6211.20.3820 and 6211.33.0030; Category
 648-W: only HTS numbers 6204.23.0040,
 6204.23.0045, 6204.29.2020, 6204.29.2025,
 6204.29.4038, 6204.63.2000, 6204.63.3000,
 6204.63.3510, 6204.63.3530, 6204.63.3532,
 6204.63.3540, 6204.69.2510, 6204.69.2530,
 6204.69.2540, 6204.69.2560, 6204.69.6030,
 6204.69.9030, 6210.50.5035, 6211.20.1555,
 6211.20.6820, 6211.43.0040 and
 6217.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 01-30049 Filed 12-4-01; 8:45 am]
 BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool Textile Products Produced or Manufactured in Ukraine

November 29, 2001.
AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2002.
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.gov>. For information on embargoes and quota re-openings, 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 Bilateral Textile Agreement of July 22, 1998, as amended and extended by exchange of notes on September 19, 2000 and January 15, 2001, between the Governments of the United States and

Ukraine establishes limits for certain wool textile products, produced or manufactured in Ukraine and exported during the period beginning on January 1, 2002 and extending through December 31, 2002.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

These limits may be revised if Ukraine becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Ukraine.

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). Information regarding the availability of the 2002 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.
Committee for the Implementation of Textile Agreements
 November 29, 2001.
 Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement of July 22, 1998, as amended and extended by exchange of notes on September 19, 2000 and January 15, 2001, between the Governments of the United States and Ukraine, you are directed to prohibit, effective on January 1, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in the following categories, produced or manufactured in Ukraine and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month limit
435	97,527 dozen.
442	16,236 dozen.
444	70,359 numbers.
448	70,359 dozen.

The limits set forth above are subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and Ukraine.

These limits may be revised if Ukraine becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Ukraine.

Products in the above categories exported during 2001 shall be charged to the applicable category limits for that year (see directive dated January 30, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 01-30050 Filed 12-4-01; 8:45 am]
 BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa Requirements for Textiles and Textile Products Integrated into GATT 1994 in the Third Stage

November 29, 2001.
AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a Directive to the Commissioner of Customs amending export visa requirements.

EFFECTIVE DATE: January 1, 2002
FOR FURTHER INFORMATION CONTACT: Lori Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION: The World Trade Organization (WTO) Agreement on Textiles and Clothing provides for the staged integration of textiles and textile products into the General Agreement on Tariffs and Trade (GATT) 1994. The third stage of the integration will take place on January 1, 2002. The products to be integrated on January 1, 2002 were announced on April 26, 1995 (see 60 FR 21075, published on May 1, 1995).

This directive does not affect textile visas that may be required under the African Growth and Opportunity Act (AGOA).

The United States will not maintain visa requirements on textiles and textile products integrated on January 1, 2002 that are produced or manufactured in a WTO Member country. In the letter

published below, the Chairman of CITA directs the Commissioner of Customs to eliminate existing visa requirements for textiles and textile products integrated on January 1, 2002 and exported on or after that date, produced or manufactured in a WTO Member country. Existing visa requirements will be maintained for goods exported prior to January 1, 2002 and for goods that are not produced or manufactured in a WTO Member country.	<i>Acting Chairman, Committee for the Implementation of Textile Agreements.</i> Part Categories in Stage 3	Category	HTS (2001)
		369	9404909505
		459	6115198020
	Category	459	6117101000
		459	6117102010
	331	6116101720	6117209020
	331	6116104810	6212900020
	331	6116105510	6214200000
	331	6116107510	6304193040
	331	6116926410	6304910050
	331	6116926420	6304991500
	331	6116926430	6304996010
	331	6116926440	6308000010
	331	6116927450	6116101730
	331	6116927460	6116104820
	331	6116927470	6116105520
	331	6116928800	6116107520
	331	6116929400	6116938800
	331	6116999510	6116939400
	359	6115198010	6116994800
	359	6117106010	6116995400
	359	6117209010	6116999530
	359	6203221000	6115110010
	359	6204221000	6115122000
	359	6212900010	6117102030
	359	6214900010	6117209030
	359	6505901525	6212900030
	359	6505901540	6214300000
	359	6505902060	6214400000
	359	6505902545	5805004010
	369	4202124000	6301100000
	369	4202128020	6301400010
	369	4202128060	6301400020
	369	4202224020	6301900010
	369	4202224500	6302530010
	369	4202228030	6302530020
	369	4202324000	6302530030
	369	4202329530	6302931000
	369	4202921500	6302932000
	369	4202923016	6303120000
	369	4202926091	6303190010
	369	5805003000	6303921000
	369	5807100510	6303922010
	369	5807900510	6303922020
	369	6301300010	6303990010
	369	6301300020	6304112000
	369	6302511000	6304191500
	369	6302512000	6304192000
	369	6302513000	6304910040
	369	6302514000	6304930000
	369	6302600010	6304996020
	369	6302600030	6307909984
	369	6302910005	9404908522
	369	6302910025	9404909522
	369	6302910045	5807100520
	369	6302910050	5807900520
	369	6302910060	5810929030
	369	6303110000	6305320010
	369	6303910010	6305320020
	369	6303910020	6305330010
	369	6304910020	6305330020
	369	6304920000	6305390000
	369	6305200000	6306120000
	369	6306110000	6306190010
	369	6307101020	6306229030
	369	6307101090	6307903020
	369	6307903010	6307904020
	369	6307904010	6307905020
	369	6307905010	6308000020
	369	6307908910	6115198040
	369	6307908945	6117106020
	369	6307909905	6212105030
	369	6307909982	6212109040
	369	9404901000	6212200030
	369	9404908040	6212300030

Category	HTS (2001)
859	6212900090
859	6214102000
859	6214900090

[FR Doc.01-30051 Filed 12-4-01; 8:45 am]
BILLING CODE 3510-DR-S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01-561-001 FERC Form 561]

Information Collection Submitted for Review and Request for Comments

November 29, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of May 8, 2001 (66 FR. 23240). The Commission has noted this fact in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received on or before January 4, 2002.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)208-1415, by fax at (202)273-0873, and by e-mail: mike.miller@fer.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC Form 561 "Annual Report of Interlocking Positions".

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* OMB No. 1902-0099. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. This is a mandatory information collection requirement.

4. *Necessity of Collection of Information:* Submission of the information is necessary to fulfill the requirements of Section 305 of the Federal Power Act (FPA), as amended by Title II, Section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Submission of FERC Form 561 satisfies the FPA section 305(b) and (c) annual reporting requirements for public utility officers and directors to report officer and director positions they hold with financial institutions, insurance companies, utility equipment providers, utility fuel providers, and a utility's top twenty customers of electric energy. FPA Section 305(c)(3)(A) defines the public utilities who are required to file. FPA section 305(c)(2) requires that the filed information be made available to the public. FPA Section 305(c)(1) requires an annual filing deadline of April 30th. The necessary filing information, the required filers, the requirement to make the information available to the public and the filing deadline are all mandated by the FPA. The Commission is not empowered to amend or waive these statutory requirements. Requirements the Commission has the authority to amend, such as format of the filing itself and the number of required copies are found at 18 46.1 and 131.31.

The Commission has used the information filed in FERC Form 561 for the identification of: (1) Possible interlocking positions where the relationship is employed for the director's own benefit or profit, or for the benefit or profit of any other person or persons and to the detriment of the utility's, or the public interest; (2) the possible existence of control over a large number and geographically widespread public utilities by a small group of individuals; (3) the lack of arm's length dealings between public utilities and organizations furnishing financial services to consumers; and (4) the evasion by means of common control of competition resulting in higher costs and poorer services to consumers.

6. *Estimated Burden:* 400 total burden hours, 1,600 respondents, 1 response annually, .25 hours per response (average).

7. *Estimated Cost Burden to Respondents:* 400 hours ÷ 2,080 hours per year × \$117,041 per year = \$22,507, average cost per respondent = \$14.

Statutory Authority: Sections 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 825d as amended and 16 U.S.C. 2601) and Section 305 of the Federal Power Act (16 U.S.C. 825d).

David P. Boergers,

Secretary.

[FR Doc. 01-30117 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-301-033]

ANR Pipeline Company; Notice of Negotiated Rate

November 29, 2001.

Take notice that on November 26, 2001, ANR Pipeline Company (ANR) tendered for filing three negotiated rate agreements between ANR and Chevron U.S.A. Inc. (Chevron) and three negotiate rate agreements between ANR and BHP Billiton Petroleum (Deepwater) Inc. (BHP) pursuant to ANR's Rate Schedules PTS-2, ITS, and ITS (Liquifiables). ANR tenders these agreements pursuant to its authority to enter into negotiated rate agreements. ANR requests that the Commission accept and approve the agreements to be effective December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for

assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.

[FR Doc. 01-30126 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-25-000; Docket No.
CP02-29-000; Docket No. CP02-30-000]

Copiah County Storage Company; Notice of Application

November 29, 2001.

Take notice that on November 14, 2001, Copiah County Storage Company (Copiah), 5400 Westheimer Court, Houston, Texas 77056-5310, filed in the captioned docket an application for a certificate of public convenience and necessity and related authorizations pursuant to section 7 of the Natural Gas Act, as amended, and the Commission's Rules and Regulations thereunder. Copiah requests authorization for the following:

(i) A certificate of public convenience and necessity pursuant to subpart A of part 157 authorizing Copiah to construct, own, operate, and maintain natural gas storage facilities capable of delivering 300,000 dekatherms per day, consisting of a storage cavern and other associated and appurtenant facilities;

(ii) A blanket construction certificate pursuant to subpart F of part 157 to permit Copiah to construct, acquire and operate additional facilities following construction of the facilities for which authorization under subpart A of part 157 is sought;

(iii) Authorization to provide storage services at market based rates; and

(iv) A blanket certificate pursuant to subpart G of part 284 authorizing Copiah to provide storage and hub services on behalf of others, and approval of the FERC Gas Tariff contained in Exhibit P, pursuant to which Copiah will provide such services consistent with Order Nos. 636 and 637, *et seq.*, all as more thoroughly described in the application on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (please call (202)208-2222 for assistance).

Copiah further requests that the Commission grant waivers of the following: (i) The requirement pursuant to § 284.7(e) that rates must be designed using a straight-fixed variable rate design methodology; (ii) the requirement pursuant to § 157.6(b)(8) to provide cost of service information necessary for determination of rate treatment; (iii) the requirement pursuant to § 157.14 to include in the application Exhibits K, L, N, and O; (iv) the accounting and reporting requirements under parts 201 and 260.2; (v) the requirement pursuant to § 157.14(a)(10) to provide total gas supply information; and (vi) all other regulations to the extent such waivers may be necessary in order to grant each of the authorizations requested in this application.

Copiah asks the Commission to issue a preliminary determination on non-environmental issues by February 20, 2002, and a final certificate order by July 24, 2002, so that Copiah will be able to commence storage service in February 2004 in order to provide its customers with storage services at the end of the 2003-2004 heating season.

The name, address, and telephone number of the person to whom correspondence and communications concerning this Application should be addressed is: Steven E. Tillman, Director of Regulatory Affairs, Copiah County Storage Company, P.O. Box 1642, Houston, Texas 77251-1642, Phone: (713) 627-5113, Fax: (713) 627-5947.

Copiah proposes to build and operate a natural gas storage facility, the Copiah Storage Project, in Copiah County, Mississippi, collectively referred to as the "Copiah Storage Project." In this application, Copiah requests authorization to develop the first of two possible caverns on the Copiah site. The proposed project will include the installation of approximately 13,350 horsepower of compression, development of an underground storage cavern, and as many as five common well sites.

The compressor site will provide compression for injection and withdrawal of natural gas to and from storage. The site of the compressor has been proposed to be as close to the cavern and fresh water/brine disposal wells as practical given the existing topography of the site. The compressor building will house three 4,450 HP turbocharged gas engine-driven Ariel reciprocating compressors along with ancillary support and control equipment, to provide a total of approximately 13,350 HP of compression.

The cavern will be created by solution mining using groundwater and will extend approximately 5,500 feet below the ground surface. The cavern that Copiah is seeking authorization to develop in this application, the Primary Cavern, will have an initial working storage capacity of approximately 3.3 billion cubic feet (Bcf), with approximately 300,000 Dekatherms per day (Dth/d) of deliverability capability and approximately 150,000 Dth/d of injection capability. Although Copiah is currently only seeking approval for development of one cavern at this time, Copiah identifies two cavern site locations in its application to allow for an alternative site in the event irreversible drilling problems are encountered at the primary site either due to geology or other complications.

The project also will include a series of wells, piping, valves, instruments, and controls to operate the solution mining and brine disposal activities associated with development of the gas storage cavern. Each well site will contain brine injection and/or freshwater withdrawal wells, along with associated ancillary facilities and service roadways.

The Copiah Storage Project has been designed as a natural gas storage and ultimately a hub services facility for injection, storage, and withdrawal of natural gas. Copiah's request for authorization is based on anticipated demand for its storage and hub services as well as market studies that project substantial growth in natural gas demand in the markets served by Copiah's customers. Due to Copiah's analysis of current and expected growth in demand for storage and hub services in the Gulf Coast region, Copiah anticipates that the Copiah Storage Project will become subscribed as capacity becomes available for service. Copiah states that the interest of the market in these services is reflected in the results of the Copiah open season during which Copiah received non-binding nominations from five potential customers for a total of approximately 6.5 Bcf of natural gas storage. The potential customers indicated an interest in signing contracts with an initial contract term of 5-10 years at the time that the Copiah facilities are close to being placed into service.

Copiah proposes to provide firm and interruptible services, which will enhance shipper options for the transportation and storage of natural gas. Copiah further proposes and requests Commission authorization to charge market-based rates for such services, which Copiah avers is appropriate as demonstrated by the

market power study included with the application.

Copiah has identified a pipeline lateral and a meter station that will be owned by a company other than Copiah and constructed in association with the Copiah Storage Project. Texas Eastern will construct, own and maintain an approximately 1.5 miles of 24-inch diameter pipeline lateral connecting Texas Eastern's 30-inch Line 14 in Copiah County, Mississippi to the Copiah Storage Project. In addition, Texas Eastern will construct, own and maintain a bi-directional meter station within the Copiah Storage Project property at a location directly adjacent to the compressor site at the terminus of the interconnection between the Copiah Storage Project and Texas Eastern's proposed 1.5-mile pipeline lateral. Texas Eastern is responsible for all appropriate federal and state filings and permits required for construction and operation of the proposed meter station and pipeline lateral. Texas Eastern has indicated to Copiah that the Texas Eastern meter station and lateral will be constructed pursuant to its blanket authority granted by the Commission in Docket No. CP82-535. Neither Texas Eastern nor Copiah are requesting authority to construct these facilities in the instant Copiah application.

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 December 19, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in

determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a

final Commission order approving or denying a certificate will be issued.

David P. Boergers,
Secretary.

[FR Doc. 01-30113 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184-065 California]

El Dorado Irrigation District; Notice of Public Meeting

November 29, 2001.

The Federal Energy Regulatory Commission (Commission) is reviewing the application for a new license for the El Dorado Project (FERC No. 184), which was filed on February 22, 2000. The El Dorado Project, licensed to the El Dorado Irrigation District (EID), is located on the South Fork American River, in El Dorado, Alpine, and Amador Counties, California. The project occupies lands of the Eldorado National Forest.

The EID, several state and federal agencies, and several non-governmental agencies have agreed to ask the Commission for time to work collaboratively with a facilitator to resolve certain issues relevant to this proceeding. The purpose of this meeting is to discuss the interests of the parties. We invite the participation of all interested governmental agencies, non-governmental organizations, and the general public in this meeting.

The meeting will be held on Monday, December 10 and Tuesday, December 11, 2001, from 9am until 4pm in the Sacramento Marriott, located at 11211 Point East Drive, Rancho Cordova, California.

For further information, please contact Elizabeth Molloy at (202) 208-0771 or John Mudre at (202) 219-1208.

David P. Boergers,
Secretary.

[FR Doc. 01-30119 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. CP02-31-000]

**Iroquois Gas Transmission System,
L.P.; Notice of Application**

November 29, 2001.

Take notice that on November 20, 2001, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, Suite 600, Shelton, Connecticut 06484, filed an application in the above-referenced docket number pursuant to Section 7(c) of the Natural Gas Act and Parts 157 of the Commission's Rules and Regulations, for a certificate of public convenience and necessity authorizing Iroquois to construct and operate its Brookfield Expansion Project (Brookfield Project). The application is on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (please call (202) 208-2222 for assistance).

In order to implement the Brookfield Project, Iroquois requests authorization to construct and operate a new compressor unit, with 10,000 (nominal) horsepower, at a proposed compressor station to be located in Brookfield, Connecticut. Iroquois has conducted non-binding open seasons for additional firm transportation capacity on its system. In addition, from September 5, 2001 through September 19, 2001, Iroquois solicited its existing customers for permanently released capacity that could be used by the expansion shippers. Because no shipper released capacity, Iroquois has executed Precedent Agreements with Astoria Energy Company, L.P. (Astoria Energy) and PPL EnergyPlus, LLC (PPL Energy) for firm transportation service commencing September 1, 2003. The proposed facilities are designed to provide up to 60,000 dekatherms per day of firm transportation capacity to Astoria Energy and up to 25,000 dekatherms per day of firm transportation capacity to PPL Energy. SCS Energy, LLC (SCS), an affiliate of Astoria Energy, is developing a 1,000 MW electric generation facility in Astoria, Queens, New York with a proposed in-service date of November 1, 2003. PPL Energy is a marketing company seeking firm natural gas service to South Commack, New York.

Iroquois states that the construction and operation of the Brookfield Project will have minimal impact on landowners and the environment.

Iroquois indicates that minimal tree clearing will take place at the compressor station site, which will provide an additional barrier to minimize potential visual and/or noise impacts of the new compressor unit.

The total cost of the Brookfield Project is estimated to be approximately \$24,637,000. Iroquois proposes to charge its Part 284 open-access RTS rates for the new service and to roll the costs of the project into its first Section 4 rate proceeding which becomes effective after the in-service date of the proposed facilities.

Any questions regarding the application be directed to Jeffrey A. Bruner, Vice President, General Counsel and Secretary for Iroquois, One Corporate Drive, Suite 600, Shelton, Connecticut 06484, at (203) 925-7200, or Donald F. Sanata, Jr., attorney for Iroquois, Troutman Saunders, LLP, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004, at (202) 274-2815.

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 December 20, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to

the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,
Secretary.

[FR Doc. 01-30114 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP00-157-006]

Kern River Gas Transmission Company; Notice of Compliance Filing

November 29, 2001.

Take notice that on November 16, 2001, Kern River Gas Transmission Company submitted a clarification in compliance with the Commission's letter order dated November 7, 2001 in this docket number.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,*Secretary.*

[FR Doc. 01-30127 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP02-55-000]

KO Transmission Company; Notice of Tariff Filing

November 29, 2001.

Take notice that on November 23, 2001, KO Transmission Company (KOT) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Eleventh Revised Sheet No. 10, bearing

a proposed effective date of December 1, 2001.

KO Transmission states that the purpose of the filing is to revise its fuel retainage percentage consistent with section 24 of the General Terms and Conditions of its Tariff. According to KOT, Columbia Gas Transmission Corporation (Columbia) operates and maintains a portion of KOT facilities pursuant to the Operating Agreement referenced in its Tariff at Original Sheet No. 7. Pursuant to that Operating Agreement, Columbia retains certain volumes associated with gas transported on behalf of KOT. On March 5, 2001, Columbia notified KOT that under terms of the Operating Agreement, KOT will be subject to a 1.39% retainage. By its October 31, 2001 report to the Commission, in Docket No. RP01-262-002, Columbia has notified the Commission of its intention to reduce its transportation retainage adjustment from 2.776% to 2.447%. Accordingly, KOT seeks to track this decrease in its fuel retainage, pursuant to GT&C section 24 of its Tariff. KOT thus files for a 1.07% fuel retainage effective December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,*Secretary.*

[FR Doc. 01-30130 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RP00-399-007]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

November 29, 2001.

Take notice that on November 26, 2001, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed on Appendix A to its filing.

National Fuel states that the purpose of the instant filing is to comply with the Commission's order issued October 26, 2001, in Docket No. RP00-399-000, et al., (the October 26 Order) and Order No. 637. The October 26 Order directed National Fuel to file actual tariff sheets implementing (1) the Commission's current rebuttable presumption policy along with a procedure for processing requests to retain discounts within two hours of submission of a request, (2) Rate Schedule IAS's rate for the Transportation Balancing Fee's negative imbalances, and (3) storage and transportation settlement period equality.

National Fuel states that copies of this filing were served upon its customers, interested state commissions and the parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.

[FR Doc. 01-30128 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01-246-003]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

November 29, 2001.

Take notice that on November 21, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 20C and First Revised Sheet No. 199D, to be effective January 1, 2002.

Natural states that the purpose of this filing is to comply with the Commission's "Order Granting Rehearing" issued in Docket No. RP01-246-000 on October 26, 2001.

Natural states that copies of the filing have been mailed to all parties set out on the Commission's official service list in Docket No. RP01-246-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,
Secretary.

[FR Doc. 01-30129 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98-1643-004, ER97-2904-004, ER98-4643-002, ER98-13-015, ER94-24-035, ER98-3934-008, ER00-2395-001, ER00-2535-001, ER01-1166-002, and ER00-3776-001]

Portland General Electric Company, Lake Benton Power Partners, LLC, Storm Lake Power Partners I, LLC, Enron Energy Services, Inc., Enron Power Marketing, Inc., Clinton Energy Management Services, Inc., Enron Energy Marketing Corp., the New Power Company, Enron Sandhill Limited Partnership, Green Power Partners I LLC; Notice of Filing

November 29, 2001.

Take notice that on November 16, 2001, Portland General Electric Company (PGE) on behalf of itself and the above-noted PGE affiliates (PGE Affiliates) filed a notice of status change with the Federal Energy Regulatory Commission (Commission) in connection with the pending merger between Enron Corp. and Dynegy Inc. (Dynegy). The Notice provides that each of the PGE Affiliates will treat Illinois Power Company, an affiliate of Dynegy as an affiliate under its FERC market rate tariff.

Copies of the filing were served upon all parties on the official service lists in these proceedings.

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 10, 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01-30118 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01-2955-002]

PSEG Energy Resources & Trade LLC; Notice of Filing

November 29, 2001.

Take notice that on November 19, 2001, PSEG Energy Resources & Trade LLC (PSEG) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Cover Page to the Service Agreement covering the sale of capacity and energy to MEICO Inc. (MEICO) pursuant to the PSEG Wholesale Power Market-Base Sales Tariff now on file with the Commission (Docket No. ER99-3151-000, approved on October 1, 1999). This Cover Page replaces the cover page that was filed on September 14, 2001.

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 10, 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.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01-30116 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. ER02-311-000]

Southern Indiana Gas and Electric Company; Notice of Filing

November 29, 2001.

Take notice that on November 16, 2001, Southern Indiana Gas and Electric Company (SIGECO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a copy of the Agreement for Firm Point-to-Point Transmission Service which was inadvertently left out of the Agreements that were filed by SIGECO on November 12, 2001.

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 10, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-30115 Filed 12-4-01; 8:45 am]

BILLING CODE 6716-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. PR02-4-000]

Transok, LLC; Notice of Petition for Rate Approval

November 29, 2001.

Take notice that on November 15, 2001, Transok, LLC (Transok) submitted for filing a revised fuel factor for its

Oklahoma Transmission System for Fuel Year 2002 as calculated under the terms of Transok's filed fuel tracker. Transok seeks an effective date of January 1, 2002.

Transok states that it is serving notice of the filing and the revised fuel percentage on all current shippers and on the Oklahoma Corporation Commission.

Pursuant to section 284.123(b)(2), if the Commission does not act within 150 days of the filing date, this rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford interested parties an opportunity for written comments and for the oral presentations of views, data and arguments.

Any person desiring to participate in this rate proceeding must 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 motions must be filed with the Secretary of the Commission on or before December 14, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow 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. 01-30124 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. EC02-29-000, et al.]

Allegheny Energy Supply Company, LLC, et al.; Electric Rate and Corporate Regulation Filings

November 28, 2001.

Take notice that the following filings have been made with the Commission:

1. Allegheny Energy Supply Company, LLC, and Allegheny Energy Global Markets, LLC New Allegheny Energy Supply Company

[Docket No. EC02-29-000]

Take notice that on November 21, 2001, Allegheny Energy Supply Company, LLC (AE Supply), Allegheny Energy Global Markets, LLC (Global Markets), and New Allegheny Energy Supply Company (New AE Supply) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of an intra-corporate reorganization whereby the membership interests in Global Markets will be transferred to AE Supply, its parent, or New AE Supply in a merger transaction. New AE Supply will be organized as a Maryland company. Also on November 26, 2001, AE Supply filed original executed affidavits to the above-mentioned filing.

Comment date: December 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Conectiv Bethlehem, Inc.

[Docket No. EG01-278-000]

Take notice that on November 21, 2001, Conectiv Bethlehem, Inc. (CBI) filed, pursuant to section 365.8 of the Commission's regulations, Notice of Intent to No Longer Maintain Exempt Wholesale Generator Status.

Comment date: December 18, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. PJM Interconnection, L.L.C.

[Docket No. ER01-3014-001]

Take notice that on November 23, 2001, PJM Interconnection, L.L.C. (PJM), submitted a compliance filing pursuant to PJM Interconnection, L.L.C. 97 FERC ¶61,068 (2001) to provide additional information regarding the ownership of the generating facility located in Rock Springs Maryland.

Copies of this compliance filing were served upon all persons designated on the official service list compiled by the Secretary in Docket No. ER01-3014.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER01-3142-000]

Take notice that on November 26, 2001, Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing

proposed revisions to the Midwest ISO Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1. In its filing, the Midwest ISO requested to withdraw incentive portions of Attachments N and N-1, which were previously submitted on October 15, 2001 in this proceeding.

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at www.midwestiso.org under the heading "Filings to FERC" for other interested parties in this matter.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Pool

[Docket No. ER02-02-001]

Take notice that on November 23, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted a report of compliance in response to requirements of the Commission's unpublished letter order issued October 25, 2001 in Docket No. ER02-02-000.

The NEPOOL Participants Committee states that copies of these materials were sent to all persons identified on the service list in the captioned proceeding, as well as the Participants which were accepted for, or terminated from, membership in NEPOOL by the October 25 letter order.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Xcel Energy Services, Inc.

[Docket No. ER02-8-001]

Take notice that on November 23, 2001, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), submitted an Order 614 compliant version of a Second Amendment to the Power Purchase Agreement between Public Service Company of Colorado and Holy Cross Energy.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Florida Power Corporation

[Docket No. ER02-187-001]

Take notice that on November 23, 2001, Florida Power Corporation (FPC)

filed a revised Service Agreement with The City of Homestead under FPC's Cost-Based Rates Tariff (CR-1), FERC Electric Tariff No. 9.

FPC is requesting an effective date of October 2, 2001 for this revised Agreement.

A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. MidAmerican Energy Company

[Docket No. ER02-397-000]

Take notice that on November 23, 2001, MidAmerican Energy Company (MidAmerican), 401 Douglas Street, Sioux City, Iowa 51102, filed with the Federal Energy Regulatory Commission (Commission) Revised Rate Schedule 72, Western Area Power Administration, Pick-Sloan Missouri Basin Program, Contract for Firm Transmission Service from Iowa Public Service Company (n/k/a MidAmerican Energy Company), dated January 18, 1989, modified by way of Revised Exhibit "A."

MidAmerican requests an effective date of September 1, 2001 for the Agreement.

MidAmerican has served a copy of the filing on Western Area Power Administration, the Iowa Utilities Board, the Illinois Commerce Commission, and the South Dakota Public Utilities Commission.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER02-398-000]

Take notice that on November 23, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62521-2200, filed an Interconnection and Operating Agreement entered into with Aquila Piatt County Power, LLC (Aquila) and subject to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of November 13, 2001 for the Interconnection Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has served a copy of the filing on Aquila.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER02-399-000]

Take notice that on November 23, 2001, Illinois Power Company (Illinois

Power), 500 South 27th Street, Decatur, Illinois 62521-2200, filed with the Commission an Emergency Energy Tariff (Tariff). Illinois Power states that it will offer emergency energy under the Tariff for the purpose of complying with its obligations under Guide No. 5B of the Mid-America Interconnected Network, Inc. (MAIN).

Illinois Power requests an effective date of February 2, 2001 for the Emergency Energy Tariff.

Illinois Power states that a copy of this filing has been mailed to each MAIN member currently participating in the Callable Reserves Emergency Energy Procedure under MAIN Guide No. 5B.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER02-400-000]

Take notice that on November 23, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement between CP&L and the following eligible buyer, Exelon Generation Company, LLC. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 5.

CP&L requests an effective date of November 1, 2001 for this Service Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Xcel Energy Services Inc.

[Docket No. ER02-401-000]

Take notice that on November 23, 2001, Northern States Power Company and Northern States Power Company (Wisconsin) (jointly NSP), wholly-owned utility operating company subsidiaries of Xcel Energy Inc., tendered for filing a Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and enXco. NSP proposes the Agreement be included in the Xcel Energy Operating Companies FERC Joint Open Access Transmission Tariff, First Revised Volume No. 1, as Service Agreement 194-NSP, pursuant to Order No. 614.

NSP requests that the Commission accept the agreement effective November 1, 2001.

Comment date: December 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Xcel Energy Services, Inc.; Northern States Power Company

[Docket No. ER02-402-000]

Take notice that on November 23, 2001, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (NSP) submitted for filing with the Federal Energy Regulatory Commission (Commission) Supplement No. 6 to the Transmission Services Agreement dated September 20, 1977, as amended between NSP and the State of South Dakota.

NSP requests the letter agreements be accepted for filing effective September 1, 2001.

Comment date: December 14, 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. 01-30052 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 6132-006]****Facilitators Improving Salmonid Habitat (FISH); Notice of Extension of Time to Comment on Environmental Assessment**

November 29, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Energy Projects has reviewed the application dated July 11, 2001, requesting the Commission's approval to surrender the Exemption from licensing and removal of a dam at the John C. Jones Project, located on the Marsh Stream, a tributary of the Penobscot River, near the towns of Winterport and Frankfort, in Waldo County, Maine, and has prepared an Environmental Assessment (EA) for the proposed and alternative actions. A notice issued October 5, 2001, established November 5, 2001, as the deadline for comments on the EA.

In response to our notice, several requests were made to extend our November 5, 2001, comment deadline by six months to prepare and present new information on recreational, public safety and environmental concerns and projected reduction of property values. The parties cite the need to gather additional information, which should be adequately done in 60 days; this is in addition to the several months that have passed since the August 7, 2001, application public notice issuance date. Accordingly, we are granting an extension of 60 days from the date of this notice to file additional information on our EA.

Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Please affix "John C. Jones Project No. 6132-006" to the first page of your comments. All timely filed comments will be considered in the Commission order addressing the proposed surrender of exemption and dam removal. 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.

For further information, please contact Jack Hannula at (202) 219-0116.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 01-30121 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Project No. 11428-000 Michigan]****City of St. Louis, Michigan; Notice of Availability of Final Environmental Assessment**

November 29, 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 the application for license for the Municipal Dam Hydroelectric Project, located on the Pine River in Gratiot County, Michigan, and has prepared a Final Environmental Assessment (FEA) for the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is on file with the Commission and is available for public inspection. The FEA may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link—select "Docket#" and follow the instructions (call 202-208-2222 for assistance).

For further information, contact Susan O'Brien at (202) 219-2840.

David P. Boergers,*Secretary.*

[FR Doc. 01-30123 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests**

November 29, 2001.

Take notice that the following application has been filed with the

Commission and is available for public inspection:

- a. Application Type: Transfer of License.
- b. Project No: 3820-007.
- c. Date Filed: November 16, 2001.
- d. Applicants: General Electric Company (Transferor) and Southern New Hampshire Hydro-Electric Development Corp (Transferee).
- e. Name and Location of Project: The Somersworth Hydroelectric Project is located on the Salmon Falls River in Stafford County, New Hampshire and York County, Maine.
- f. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).
- g. Applicant Contacts: Mr. Mark E. Beliveau, Esquire, Sanders & McDermott, P.L.L.C., 234 Lafayette Road, Hampton, NH 03843-5070 (603) 926-8926/(fax) 603-926-0564, mbeliveau@samlaw.com (General Electric Company); John N. Webster, President, Southern New Hampshire Hydro-Electric Development Corp, 293 Main Street, P.O. Box 178, South Berwick, ME 03908, (207) 384-5334.
- h. FERC Contact: Any questions on this notice should be addressed to Mr. Lynn R. Miles at (202) 219-2671.
- i. Deadline for filing comments and or motions: January 7, 2002.
All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.
Please include the project number (P-3820-007) on any comments or motions filed.
- j. Description of Proposal: Applicants propose a transfer of the license for 3820-000 from General Electric Company to Southern New Hampshire Hydro-Electric Development Corp. Substitution of Southern New Hampshire Hydro-Electric Development Corp for General Electric Company as licensee for this project is being sought in connection with Southern New Hampshire Hydro-Electric Development Corp's intended acquisition of project resources from General Electric Company.
- k. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208-1371. 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). A copy is also available for inspection and reproduction at the address in item g above.

1. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01-30120 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10455-021]

JDJ Energy Company; Notice of Extension of Deadline for Filing Comments and or Motions on Notice of Application for Amendment of License

November 29, 2001.

Take notice that the deadline for filing comments, motions to intervene, or protests on the notice of application to amend the license for the River Mountain Pumped Storage Hydroelectric Project (Project No. 10455-021), issued November 27, 2001, is extended to December 31, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-30122 Filed 12-4-01; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7112-7]

Announcement of a Federal Operating Permits Program Consistent With 40 CFR Part 71; Maryland; Delegation of the Title V Permitting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: The purpose of this notice is to announce that on December 1, 2001, a Federal operating permits program consistent with the requirements of the Clean Air Act (the Act) and the applicable Federal regulations will be effective in the State of Maryland. Furthermore, effective December 1, 2001, EPA is granting the Maryland Department of the Environment's (MDE's) request for full delegation of authority to implement and enforce the Act's Federal operating permits program. Under this delegation, EPA retains its authority to object to the issuance of any permit, act upon petitions submitted by the public, and collect fees from all owners or operators of sources subject to the permitting program if it is demonstrated that MDE is not adequately implementing the program in accordance with the Delegation of Authority Agreement, the applicable Federal regulations, and/or the Act. The procedures for full delegation are specified in a Delegation of Authority Agreement between EPA Region III and MDE signed and dated on November 27, 2001.

EFFECTIVE DATES: The Federal operating permits program, 40 CFR part 71, will be effective in the State of Maryland on December 1, 2001. The effective date for the Delegation of Authority Agreement between EPA and MDE is December 1, 2001.

ADDRESSES: Copies of the letter that requests delegation of the federal operating permits program and the Delegation of Authority Agreement between EPA and MDE are available for public inspection at EPA's Region III Office, 1650 Arch Street, Philadelphia, PA 19103 and MDE, 2500 Broening Highway, Baltimore, MD 21224. Effective December 1, 2001, all notifications, requests, applications, reports and other correspondence required under 40 CFR part 71 for all Part 71 sources, shall be submitted to MDE's Air Quality Permits Program at the following address:

MDE Office—Air Quality Permits Program, Air and Radiation Management, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224. Attn: Permits Program Chief.

All reports, notifications, requests, petitions pursuant to the Federal permitting program, 40 CFR part 71, and the Delegation of Authority Agreement from all part 71 sources or the public should be submitted to EPA at the following address:

EPA Office: Permit and Technical Assessment Branch (3AP11), Air Protection Division, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. Attn: Chief, Permit and Technical Assessment Branch.

FOR FURTHER INFORMATION CONTACT: Helene Drago, Permit and Technical Assessment Section (3AP11), Air Protection Division, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Telephone: 215-814-5796, email: drago.helene@epa.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that on December 1, 2001, the Federal operating permits program consistent with the requirements of Title V of the Clean Air Act (the Act) as set forth under 40 CFR part 71 (part 71 program) will be effective in the State of Maryland. Furthermore, effective December 1, 2001, EPA is granting the Maryland Department of the Environment's (MDE's) request for full delegation of authority to implement and enforce the part 71 Federal operating permits program. Under this delegation, EPA retains its authority to (1) object to the issuance of any part 71 permit, (2) act upon petitions submitted by the public, and (3) collect fees from

all owners or operators of sources subject to 40 CFR part 71 if it is demonstrated that MDE is not adequately implementing the part 71 program in accordance with the Delegation of Authority Agreement, 40 CFR part 71, and/or the Act. The procedures for full delegation are specified in a Delegation of Authority Agreement between EPA Region III and MDE signed and dated on November 27, 2001.

On October 30, 1995 (60 FR 55231), the EPA published a proposed rule to grant interim approval of Maryland's operating permits program, submitted to EPA pursuant to Title V of the Act and 40 CFR part 70 (part 70 program). On July 3, 1996 (61 FR 34733), EPA published a final rule granting interim approval of Maryland's part 70 operating permits program. Please see these proposed and final rules for a full explanation of the reasons why Maryland did not receive full approval of its part 70 program. Under the Act, Maryland had two years after receiving interim approval in which to correct the identified deficiencies of its part 70 program. In recognition of States' efforts to implement the Title V permitting program and EPA's own efforts to revise its implementing regulations, EPA granted several extensions to the interim approval period. A lawsuit was filed against EPA on June 21, 2000 by the EarthJustice Legal Defense Fund on behalf of the Sierra Club and the New York Public Interest Research Group, regarding these extensions. In settlement of that litigation, EPA entered into a settlement agreement which provides that no further extensions of the interim approval period will be granted for any part 70 operating permit programs, including the State of Maryland's, beyond December 1, 2001. MDE will not be able to address all interim approval deficiencies by December 1, 2001. In particular, Maryland will not have enacted legislation to provide, unambiguously, standing for judicial review of its permits consistent with section 502(b)(6) of the Act and 40 CFR 70.4(b)(3)(x) and which meets the minimum threshold requirements of Article III of the U.S. Constitution for organizations and individuals. Therefore, on December 1, 2001, Maryland will lose its interim approval status of its part 70 permitting program. Pursuant to the Act, Maryland will be required to implement a part 71 Federal operating permit program effective December 1, 2001.

The Act and its implementing regulations under the part 71 authorize EPA to delegate authority to any state

agency that submits adequate regulatory procedures for implementation and enforcement of the part 71 operating permits program. On September 24, 2001, MDE requested full delegation of authority to implement and enforce the federal operating permits program consistent with the requirements of Title V of the Act and part 71. MDE provided all necessary documentation that the State of Maryland has adequate authority and adequate resources to implement and enforce the part 71 Federal permitting program.

Pursuant to 40 CFR 71.10(b), EPA hereby notifies the public that effective December 1, 2001, it has granted MDE's request and is fully delegating the authority to implement and enforce the Federal operating permits program as set forth under 40 CFR part 71. Under this delegation, MDE has authority to implement and enforce the Federal operating permits program consistent with the requirements of Title V as set forth under the part 71 program. As previously stated, EPA retains its authority to (1) object to the issuance of any part 71 permit, (2) act upon petitions submitted by the public and (3) collect fees from all owners or operators of part 71 sources if it is demonstrated that MDE is not adequately implementing the part 71 program in accordance with the Delegation of Authority Agreement, part 71, and/or the Act. The full delegation is set forth in a Delegation of Authority Agreement between EPA Region III and MDE signed and dated on November 27, 2001. If, at any time, EPA determines that MDE is not or cannot adequately implement or enforce the requirements of part 71, this delegation may be revoked, in whole or in part, pursuant to 40 CFR 71.10(c).

Dated: November 27, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01-30101 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34203K; FRL-6811-4]

Chlorpyrifos; Receipt of Requests for End-Use Product Cancellations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Companies that hold the pesticide registrations of end-use pesticide products containing chlorpyrifos [*O,O*-diethyl] *O*-(3,5,6-

trichloro-2-pyridinyl)phosphorothioate] have asked EPA to cancel their registrations. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests from the registrants. These requests for voluntary cancellation are the result of a Memorandum of Agreement signed by EPA and the basic manufacturers of the active ingredient chlorpyrifos on June 7, 2000. Registrants identified in this notice requesting voluntary cancellation are in large part the customer of these basic manufacturers. Given the potential risks, both dietary and non-dietary, that chlorpyrifos use poses, to children, EPA intends to grant the requested cancellations. EPA also plans to issue a cancellation order for the canceled registrations at the close of the comment period for this announcement. Upon the issuance of the cancellation order, any distribution, sale, or use of these chlorpyrifos products will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

DATES: Comments, identified by docket control number OPP-34203K, must be received on or before January 4, 2002. Comments on the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP-34203K.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-34203K in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Tom Myers, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: 703-308-8589; fax number: 703-308-8041; e-mail address: myers.tom@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use chlorpyrifos products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of

1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the 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 information about the risk assessment for chlorpyrifos, go to the Home Page for the Office of Pesticide Programs or go directly <http://www.epa.gov/pesticides/op/chlorpyrifos.htm>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-34203K. 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.

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 OPP-34203K 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 Hwy., 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 OPP-34203K. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Receipt of Requests to Cancel Registrations

A. Background

In a memorandum of agreement ("Agreement") effective June 7, 2000, EPA and the basic manufacturers of the active ingredient chlorpyrifos agreed to several voluntary measures that will reduce the potential exposure to children associated with chlorpyrifos containing products. EPA initiated the negotiations with registrants after finding chlorpyrifos, as currently registered, was an exposure risk especially to children. As a result of the Agreement, registrants that hold the pesticide registrations of end-use products containing chlorpyrifos (who are in large part the customer of these basic manufacturers) have asked EPA to cancel their registrations for these products. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these cancellation requests from the registrants.

In the **Federal Register** of September 20, 2000 (65 FR 56886) (FRL-6743-7), EPA published a notice of the Agency's receipt of amendments and cancellations for manufacturing use products and associated end-use products for signatories of the Memorandum of Agreement signed on June 7, 2000, and subsequent ancillary agreements. These requests were submitted as a result of the Memorandum of Agreement that was signed on June 7, 2000, between EPA and the basic manufacturers of chlorpyrifos. A copy of the Memorandum of Agreement that was signed on June 7, 2000, is located in OPP docket control number 34203D.

B. Requests for Voluntary Cancellation of End-Use Products

Pursuant to the Agreement and FIFRA section 6(f)(1)(A), several registrants have submitted requests for voluntary cancellation of registrations for their end-use products. The registrations for which cancellations were requested are identified in the following Table.

TABLE — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Reg. No.	Product
Dragon Chemical Corporation	16-101	Dursban 1/2 Granular Insecticide
	16-123	Dragon Home Pest Control
	16-139	Dragon Home Pest Killer
	16-146	Dragon Termite and Soil Insect Killer
	16-163	Dragon Crawling Insect Killer
	16-172	Dragon Dursban 1% Granular Insecticide
The Scotts Company	239-2423	Ortho Lawn Insect Spray
	239-2490	Ortho Home Pest Insect Control
	239-2513	Ortho-Klor Soil Insect and Termite Killer
	239-2517	Ortho-Klor Indoor & Outdoor Insect Killer
	239-2520	Ortho Mole Cricket Bait Formula II
	239-2521	Ortho Mole Cricket Bait Formula III
	239-2570	Ortho-Klor 1% Dursban Lawn & Soil Granules
	239-2633	Ortho Dursban Lawn Insect Formula II
	239-2635	Ortho Multipurpose Borer & Insect Spray
Amvac Chemical Corporation	5481-68	Alco Chlorpyrifos 1E Emulsifiable Insecticide
	5481-121	Chlorpyrifos Granules 1
	5481-216	Dursban-DDVP 2.50 Pest Control
	5481-217	Dursban-DDVP 1.25
	5481-221	Dursban 2E Insecticide
	5481-222	Bilco Dursban 4E Insecticide
	5481-240	Alco Bug Spray Flea, Ant and Roach Killer

TABLE — END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS—Continued

Company	Reg. No.	Product
Contact Industries, a Division of Safeguard Chemical Corporation	10806-52	Contact Roach & Ant Killer II
	10806-99	Contact Ant and Roach Killer IV
	10806-100	Contact Ant and Roach Killer XV
	10806-101	Contact Liquid Ant & Roach Killer V
	10806-102	Contact Roach and Ant Killer XVI
Amrep, Incorporated	10807-116	Misty Ant, Roach, & Spider Residual Insecticide with Dursban
	10807-187	Misty Aqueous Residual Spray
Drexel Chemical Company	19713-229	Drexel Chlorpyrifos 0.5G
	19713-341	Leisur and Lawn Insect Control

Under section 6(f)(1)(A) of FIFRA, registrants may request at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30-day period in which the public may comment before the Agency may act on the request for voluntary cancellation. Given the potential risks, both dietary and non-dietary, that chlorpyrifos use poses, to children, EPA intends to grant the requested cancellations at the close of the comment period for this announcement.

III. Proposed Existing Stocks Provisions

The registrants have requested voluntary cancellation of the chlorpyrifos registrations identified in the Table. Pursuant to section 6(f) of FIFRA, EPA intends to grant the requests for voluntary cancellations. For purposes of the cancellation order that the Agency intends to issue at the close of the comment period for this announcement, the term "existing stocks" will be defined pursuant to EPA's existing stocks policy at June 26, 1991 (56 FR 29362) (FRL-3846-4) as those stocks of a registered pesticide product, which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

1. *Distribution or sale by registrants—i. Restricted use and package size limitations.* Except for the purposes of returns for relabeling consistent with the June 7, 2000, Memorandum of Agreement, shipping for export

consistent with the requirements of section 17 of FIFRA, or proper disposal:

(a) The distribution or sale by registrants of existing stocks of any EC formulation product listed in the Table will not be lawful under FIFRA, as of the date of publication of the cancellation order in the **Federal Register**, unless the product is labeled as restricted use.

(b) The distribution or sale by registrants of existing stocks of any product listed in the Table (other than containerized baits in child resistant packaging (CRP)) that is not an EC, will not be lawful under FIFRA as of the date of the cancellation notice, unless the product is either labeled for restricted use or packaged in containers no smaller than 15 gallons of a liquid formulation or 25 pounds of a dry formulation.

ii. *Prohibited uses.* Except for the purposes of returns for relabeling consistent with the June 7, 2000 Memorandum of Agreement, shipping for export consistent with the requirements of section 17 of FIFRA, or proper disposal, the distribution or sale of existing stocks by registrants of any product identified in the Table that bears instructions for any of the following uses will not be lawful under FIFRA as of the date of publication of the cancellation order in the **Federal Register**:

(a) Termite control, unless the product bears directions for use of a maximum 0.5% active ingredient (a.i.) chlorpyrifos end-use dilution.

(b) Post-construction termite control, except for spot and local termite treatment, provided the label of the product states that the product may not be used for spot and local treatment after December 31, 2002.

(c) Indoor residential except for containerized baits in CRP.

(d) Indoor non-residential except for containerized baits in CRP and products with formulations other than EC that bear labeling solely for one or more of the following uses: Warehouses, ship holds, railroad boxcars, industrial plants, manufacturing plants, food processing plants, or processed wood products treated during the manufacturing process at the manufacturing site or at the mill.

(e) Outdoor residential except for products bearing labeling solely for one or more of the following public health uses: Individual fire ant mound treatment by licensed applicators or mosquito control by public health Agencies.

(f) Outdoor non-residential, non-agricultural except for products that bear labeling solely for one or more of the following uses: Golf courses, road medians, and industrial plant sites, provided the maximum label application rate does not exceed 1 lb a.i./per acre; mosquito control for public health purposes by public health Agencies; individual fire ant mound treatment for public health purposes by licensed applicators; and fence posts, utility poles, railroad ties, landscape timbers, logs, pallets, wooden containers, poles, posts, processed wood products, manhole covers, and underground utility cable and conduits.

2. *Retail and other distribution or sale.* The retail sale of existing stocks of products listed in the Table bearing instructions for the prohibited uses set forth above in Units III.1.(ii) (a)-(f) of this document will not be lawful under FIFRA after December 31, 2001. Except as otherwise provided in this order, any other distribution or sale (for example, return to the manufacturer for relabeling) is permitted until stocks are exhausted.

3. *Final distribution, sale and use date for pre-construction termite control.* The distribution, sale or use of any product listed in the Table bearing instructions for pre-construction termiticide use will not be lawful under FIFRA after December 31, 2005, unless prior to that date, EPA has issued a written determination that such use may continue consistent with the requirements of FIFRA.

4. *Use of existing stocks.* Except for products bearing those uses identified above in Unit III.3. of this document, EPA intends to permit the use of existing stocks of products listed in the Table until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

List of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: November 20, 2001.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01-29779 Filed 12-4-01; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

November 20, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to

minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 4, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202-418-0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0262.

Title: Section 90.179, Shared Use of Radio Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 41,000.

Estimated Time Per Response: .75 hours.

Frequency of Response:

Recordkeeping requirement.

Total Annual Burden: 30,750 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission has been directed by the United States Congress, in the Balanced Budget Act of 1997, to dedicate 2.4 megahertz of electromagnetic spectrum in the 746-806 MHz band for public safety services. The *First Report and Order* and *Third Notice of Proposed Rulemaking* in WT Docket No. 96-86 amended service rules to allow entities applying to the Commission for license to share the radio station on a non-profit cost sharing basis. Section 90.179 requires that Part 90 licensees that share use of their private land mobile radio facility on a non-profit, cost-shared basis keep a written sharing agreement as part of the station records. Regardless of the method of sharing, an up-to-date list of persons who are sharing the station and the basis of their eligibility under Part 90 must be maintained. This requirement is necessary to identify users of the systems should interference problems develop. This information is used by the Commission to investigate interference complaints and resolve interference and operational complaints that may occur among the users.

OMB Control No.: 3060-0986.

Title: Federal-State Joint Board on Universal Service—Plan for Reforming the Rural Universal Service Support Mechanism, CC Docket No. 96-45.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, state, local or tribal government.

Number of Respondents: 1,300 respondents; 5,770 responses.

Estimated Time Per Response: .81 hours per response (avg.).

Frequency of Response: On occasion, quarterly, annual, and one-time reporting requirements; third party disclosure requirement.

Total Annual Burden: 5,770 hours.

Total Annual Cost: N/A.

Needs and Uses: On May 23, 2001, the Commission adopted rules for determining high-cost universal service support for rural telephone companies for the next five years based upon proposals made by the Rural Task Force. The Commission also addressed certain proposals made by the Multi-Association Group (MAG) for reforming universal services applicable to rural carriers. The information will be used to determine whether and to what extent rural telecommunications carriers providing the data are eligible to receive universal service support.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-30087 Filed 12-4-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), propose to extend, without

revision, the following currently approved information collections: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and Report of Assets and Liabilities of Non-U.S. Branches that are Managed or Controlled by a U.S. Branch or Agency of a Foreign Bank (FFIEC 002s). The Board, which collects and processes these reports for the three agencies, is publishing this notice on behalf of the agencies. At the end of the comment period, the comments and recommendations received will be analyzed to determine whether the FFIEC should modify the reports. The Board will then submit the reports to OMB for review and approval.

DATES: Comments must be submitted on or before February 4, 2002.

ADDRESSES: Interested parties are invited to submit written comments to the agency listed below. All comments, which should refer to the OMB control number, will be shared among the agencies. Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, submitted by electronic mail to regs.comments&federalreserve.gov, or delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the FFIEC 002 and FFIEC 002s reporting forms may be obtained at the FFIEC's web site (www.ffiec.gov). Additional information or a copy of the reporting forms may also be requested from Mary M. West, Federal Reserve Board Clearance Officer, (202) 452-3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872-4984, Board of Governors of the Federal Reserve

System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Proposal to extend, without revision, the following currently approved collections of information:

1. Report Title: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.
Form Number: FFIEC 002.
OMB Number: 7100-0032.
Frequency of Response: Quarterly.
Affected Public: U.S. branches and agencies of foreign banks.
Estimated Number of Respondents: 354.
Estimated Total Annual Responses: 1,416.
Estimated Time per Response: 22.50 burden hours.
Estimated Total Annual Burden: 31,860 burden hours.

General Description of Report

This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b). Except for select sensitive items, this information collection is not given confidential treatment (5 U.S.C. 552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract

On a quarterly basis, all U.S. branches and agencies of foreign banks (U.S. branches) are required to file a detailed schedule on their assets and liabilities in the form of a condition report and a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. The Federal Reserve System collects and processes this report on behalf of all three agencies.

2. Report Title: Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank.
Form Number: FFIEC 002s.
OMB Number: 7100-0273.
Frequency of Response: Quarterly.
Affected Public: U.S. branches and agencies of foreign banks.
Estimated Number of Respondents: 114.
Estimated Total Annual Responses: 456.
Estimated Time per Response: 6 burden hours.
Estimated Total Annual Burden: 2,736 burden hours.

General Description of Report

This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b) and is given confidential treatment (5 U.S.C.

552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract

On a quarterly basis, all U.S. branches and agencies of foreign banks are required to file detailed schedules on their assets and liabilities in the form FFIEC 002. The FFIEC 002s is a separate supplement to the FFIEC 002 that collects information on assets and liabilities of any non-U.S. branch that is "managed or controlled" by a U.S. branch or agency of the foreign bank. Managed or controlled means that a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that foreign branch resides at the U.S. branch or agency. A separate FFIEC 002s must be completed for each managed or controlled non-U.S. branch. The FFIEC 002s must be filed quarterly along with the U.S. branch's or agency's FFIEC 002.

The data are used: (1) to monitor deposit and credit transactions of U.S. residents; (2) for monitoring the impact of policy changes; (3) for analyzing structural issues concerning foreign bank activity in U.S. markets; (4) for understanding flows of banking funds and indebtedness of developing countries in connection with data collected by the International Monetary Fund (IMF) and the Bank for International Settlements (BIS) that are used in economic analysis; and (5) to provide information to assist in the supervision of U.S. offices of foreign banks, which often are managed jointly with these branches.

Request for Comment

Comments submitted in response to this Notice will be shared among the agencies and will be summarized or included in the Board's request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection requests. Comments are invited on:

- (a) Whether the proposed collection of information is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;
- (b) The accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Board of Governors of the Federal Reserve System, November 29, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01-30043 Filed 12-4-01; 8:45 am]

BILLING CODE 3510-22-S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 19, 2001.

A. Federal Reserve Bank of Chicago
(Phillip Jackson, Applications Officer)
230 South LaSalle Street, Chicago,
Illinois 60690-1414:

1. *Merrill G. Norton, and Suellen Norton*, both of Danville, Illinois; to retain voting shares of Vermilion Bancorp, Inc., Danville, Illinois, and thereby indirectly retain voting shares of American Savings Bank of Danville, Danville, Illinois.

Board of Governors of the Federal Reserve System, November 29, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-30044 Filed 12-4-01; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations—Working Group on Quality.

Time and Date: 1:30 p.m.—4:30 p.m., December 12, 2001.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of the meeting is to hear testimony on public and private sector data collection and reporting activities in the area of patient safety. The presenters will be asked to address limitations in the current data infrastructure for identifying and reporting on medical errors and other safety-related measures of the quality of health care in the U.S.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Stanley Edinger Ph.D., Lead Staff Person for the HCVHS Subcommittee on Special Populations, Working Group on Quality, Agency for Healthcare Research and Quality, 6011 East Jefferson Street, Suite 200, #106, Rockville, MD 20852, telephone (301) 594-1598; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458-4245. Information also is available on the NCVHS home page of the HHS website: <http://aspe.os.dhhs.gov/ncvhs>, where an agenda for the meeting will be posted when available.

Dated: November 27, 2001.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 01-30151 Filed 12-4-01; 8:45 am]

BILLING CODE 4151-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Standards and Security.

Time and Date: 9 a.m. to 5 p.m., December 13, 2001, 8:30 a.m. to 3 p.m., December 14, 2001.

Place: Hubert H. Humphrey Building, Room 705A, 200 Independence Avenue, SW., Washington, DC.

Status: Open.

Purpose: On the first day, the Subcommittee will focus on the patient medical record initiative. The Subcommittee will participate in a question and answer session with Standards Developing Organizations working in the area of message formats, and will discuss the letter conveying recommendations on this topic to the Secretary. The topic for the second day will be Health Insurance Portability and Accountability Act of 1996 (HIPAA) administrative simplification standards. The Subcommittee will hear testimony on industry readiness, and will discuss the 2001 report to Congress on the status of HIPAA administrative simplification implementation.

Notice: In the interest of security, HHS has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Persons without a government identification card may need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from J. Michael Fitzmaurice, Ph.D., Senior Science Advisor for Information Technology, Agency for Health Care Research and Quality, 2101 East Jefferson Street, #600, Rockville, MD 20852, phone: (301) 594-3938; or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 458-4245. Information also is available on the NCVHS home page of the HHS web site: <http://www.ncvhs.hhs.gov/> where an agenda for the meeting will be posted when available.

Dated: November 27, 2001.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 01-30152 Filed 12-4-01; 8:45 am]

BILLING CODE 4151-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-176]

Notice of the Revised Priority List of Hazardous Substances That Will Be the Subject of Toxicological Profiles; Correction

A notice announcing the availability of the Revised CERCLA Priority List of 275 Hazardous Substances based on the most recent information available to ATSDR and EPA was published in the **Federal Register** on October 25, 2001, (66 FR 54014). This notice is corrected as follows:

On page 54014, in the third column, under the heading of:

ADDRESSES, the website for the 2001 Priority List of Hazardous Substances should read: <http://www.atsdr.cdc.gov/clist.html>. On page 54015, in the first column, also under the heading of:

ADDRESSES, the website for the CEP Report should read: <http://www.atsdr.cdc.gov/cep.html>.

All other information and requirements of the October 25, 2001, notice remain the same.

Dated: November 29, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01-30078 Filed 12-4-01; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY-08-02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639-7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Evaluating Toolbox Training Safety Program for Construction and Mining—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC) proposes to evaluate the effectiveness of various educational approaches utilizing “toolbox” safety training materials targeted to construction and mining industries. The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

In comparison to other industries, construction and mining, workers continue to have the highest rates of occupational fatalities and injuries. The Bureau of Labor Statistics estimated for 1999 that while the construction industry comprises only 6% of the workforce, they account for 20% of the fatal occupational injuries across all industry types (BLS, 1999). Similarly, though the mining industry comprises less than .5% of the workforce, this industry reflects 2% of all fatal occupational injuries (BLS, 1999).

Research on the effectiveness of safety and health training programs has revealed that training can lead to increases in worker knowledge and awareness of workplace safety practices. However, fewer evaluations of safety training effectiveness have investigated the relationship between various

instructional approaches and the actual transfer of safety training information into workplace practices. Preliminary input from employees, managers, and union leaders representing construction and mining concerns revealed a desire in these industries for affordable safety training materials that can be effectively administered in short sessions on the job. Representatives from these industries reported that safety training sessions need to establish a closer connection between the safety recommendations and the background experiences and knowledge of the workers.

An instructional approach that may address these needs is often called “toolbox” or “tailgate” training. This type of training is characterized by brief (15 minute) workplace safety lessons. Despite the popularity of toolbox safety talks, research is needed to identify the most effective format for this medium. NIOSH will investigate the impact of using a narrative, case-study instructional approach versus a more typical, didactic learn the facts’ approach. Comparative analyses will examine differences in knowledge gain, safety attitudes and beliefs, and workplace behaviors. Findings from this research will help identify the conditions critical to effective toolbox safety training for mining and construction. The materials developed and evaluated during this study will be made available to the public at the conclusion of the evaluation.

Construction and mining companies who participate in the study will be randomly assigned to receive eight weekly toolbox safety training sessions that use either a case-study narrative or conventional instructional approach. The training sessions are designed to last fifteen minutes. The impact of these materials will be evaluated through the examination of changes in employee knowledge gains, attitudes toward safety practices, and the use of safety behaviors prior to and following their participation in the safety training program. Trainers will complete brief response cards each week. A sample of trainers will participate in structured interviews.

Findings of the study will be reported to participants and in the literature. The total annual burden for this data collection is 363 hours.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Worker Knowledge-Attitude Survey (Before Training)	640	1	15/60
Worker Knowledge-Attitude Survey (After Training)	640	1	15/60

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Instructor Feedback Cards	64	8	5/60

Dated: November 28, 2001.
Nancy E. Cheal,
Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.
 [FR Doc. 01-30041 Filed 12-4-01; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4650-N-85]

Notice of Submission of Proposed Information Collection to OMB; Section 5(h) Homeownership Program for Public Housing: Submission of Plan and Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 4, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB

approval number (2577-0201) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including

number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice Also List the Following Information

Title of Proposal: Section 5(h) Homeownership Program for Public Housing; Submission of Plan and Reporting.

OMB Approval Number: 2577-0201.
Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Public Housing Agencies (PHAs) are required to submit to HUD a plan to sell public housing to residents. PHAs consult with residents in developing the plan. Residents who desire to purchase under the homeownership plan submit an application to the PHA. PHAs prepare the detailed plan including description of the property, terms and conditions of sales to the residents, budget estimate, counseling, training and technical assistance provided.

Respondents: Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: Annually.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	73		1		74		5,421

Total Estimated Burden Hours: 5,421.
Status: Reinstatement, without change.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 27, 2001.
Wayne Eddins,
Departmental Reports Management Officer, Office of the Chief Information Officer.
 [FR Doc. 01-30034 Filed 12-4-01; 8:45 am]
BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4650-N-86]

Notice of Submission of Proposed Information Collection to OMB; Reporting Requirements for the Auction of Section 221(g)(4) Multifamily Mortgages

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 4, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502-0460) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the

description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, and extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Reporting Requirements for the Auction of Section 221(g)(4) Multifamily Mortgages.

OMB Approval Number: 2502-0460.
Form Numbers: HUD-93487, HUD-93487-A

Description of the Need for the Information and its Proposed use: HUD collects information from assigning mortgages on form HUD-93487, "Project Summary Data Sheet", and makes the information available to bidders participating in the auction of Section 221(g)(4) mortgages. Mortgagees the purchase the mortgages will submit form HUD-93487-A, "Billing for Section 221(g)(4) Monthly Interest Enhancement Payments;", in order to obtain their monthly interest enhancement payments.

Respondents: Business or other for profit

Frequency of Submission: Other 93487-A—When a mortgagee makes an election to assign a 221(g)(4) mortgage.

	Number of re- spondents	×	Frequency of response	×	Hours per re- sponse	=	Burden hours
Reporting Burden	153		1.2		0.6		104

Total Estimated Burden Hours: 104.
Status: Reinstatement, without change.

Authority: Sec. 3057 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 28, 2001.

Wayne Eddins,
*Department Reports Management Officer,
Office of the Chief Information Officer.*
[FR Doc. 01-30035 Filed 12-4-01; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4401-C-06]

Statutorily Mandated Designation of Difficult Development Areas and Qualified Census Tracts for Section 42 of the Internal Revenue Code of 1986; Correction

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice; correction.

SUMMARY: This notice corrects the designation of 2002 Qualified Census Tracts for Guam, published in the **Federal Register** on September 11, 2001.

FOR FURTHER INFORMATION CONTACT: For questions on how areas are designated and on geographic definitions: Steven Ehrlich, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-0426, e-mail Steven_R_Ehrlich@hud.gov. For specific legal questions pertaining to section 42 and this notice: Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-3260, e-mail JERRY_GROSS@hud.gov. For questions about the "HUBZones" program: Michael P. McHale, Assistant Administrator for Procurement Policy, Office of Government Contracting, Suite 8800, Small Business Administration, 409 Third Street, SW, Washington, DC 20416, telephone (202) 205-6731, fax (202) 205-7324, e-mail michael.mchale@sba.gov. A text telephone is available for persons with hearing or speech impairments at (202) 708-9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD

User at (800) 245-2691 for a small fee to cover duplication and mailing costs.

Copies Available Electronically: This notice and additional information about Difficult Development Areas and Qualified Census Tracts are available electronically on the Internet (World Wide Web) at <http://www.huduser.org/datasets/qct.html>.

SUPPLEMENTARY INFORMATION: On September 11, 2001 (66 FR 47266), the Department published a list of Statutorily Mandated Difficult Development Areas (DDAs) and Qualified Census Tracts (QCTs) for Section 42 of the Internal Revenue Code of 1986. Designations were made for all U.S. states and territories. An error affecting the Guam QCT designations was recently found. Five additional census tracts in Guam should have been designated as QCTs. No QCTs outside of Guam were affected by the error. No DDAs were affected by the error.

Accordingly, FR Doc 01-22566, a notice published in the **Federal Register** on September 11, 2001 (66 FR 47266), is corrected as follows:

On page 47370, the table under Nonmetropolitan Part of State: Guam, the entries are corrected to read as follows:

	Tract						
Guam	9502.00	9512.00	9513.00	9526.00	9530.00	9539.98	9548.00 9555.00

Dated: November 21, 2001.

Lawrence L. Thompson,

General Deputy, Assistant Secretary for Policy Development and Research.

[FR Doc. 01-30031 Filed 12-4-01; 8:45 am]

BILLING CODE 4210-62-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4710-C-04]

Public Housing Assessment System (PHAS) Financial Condition and Physical Condition Interim Scoring Notices Correction; Location for Submission of Public Comments

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice; correction.

SUMMARY: On November 26, 2001, HUD published two notices that advised of interim scoring processes under HUD's Public Housing Assessment System (PHAS) for the PHAS Physical Condition Indicator and for the PHAS Financial Condition Indicator. The notices also solicited public comment but omitted the location where public comments could be submitted. This notice provides that information.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center (REAC), Attention: Wanda Funk, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024, telephone REAC's Customer Service Center at (888) 245-4860 (this is a toll free number) or the Office of Public and Indian Housing, Attention: Judy Wojciechowski, Director of PHAS Operations, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024, telephone (202) 708-4932 extension 3464. Persons with hearing or speech impairments may access these telephone numbers via TTY by calling the Federal Information Relay Service at (800) 877-8339. Additional information is available from the REAC web site at <http://www.hud.gov/reac/>.

SUPPLEMENTARY INFORMATION: On November 26, 2001, HUD published two notices that advised of interim scoring processes under HUD's Public Housing Assessment System (PHAS) for the PHAS Physical Condition Indicator (66 FR 59084) and for the PHAS Financial Condition Indicator (66 FR 59126). A third notice, the introductory notice to the two interim scoring processes (66 FR 59080) provided background information on the PHAS and also the

basis for proposing interim scoring processes. All three notices solicited public comment but inadvertently omitted the location where public comments could be sent.

This notice published today provides that information. The address for submitted public comments on these notices is as follows:

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

Dated: November 29, 2001.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 01-30032 Filed 12-4-01; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 USC 1531 *et seq.*).

Permit No. TE-049668

Applicant: California Department of Fish and Game, Bishop, California.

The applicant requests a permit to take (capture, collect, sacrifice, and remove genetic samples) the Owens tui chub (*Gila bicolor snyderi*) in conjunction with physiological investigations in Inyo, Mono, and Madera Counties, California for the purpose of enhancing its survival.

Permit No. TE-050122

Applicant: California Department of Fish and Game, Bishop, California.

The applicant requests a permit to take (capture, mark with radio collars, tag, translocate, and collect biological samples) the bighorn sheep (*Ovis canadensis*) in conjunction with ecological research in Inyo and Mono

Counties, California for the purpose of enhancing its survival.

Permit No. TE-802450

Applicant: Arthur E. Davenport, El Cajon, California.

The permittee requests a permit amendment to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (capture and tag) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with demographic studies on the San Diego National Wildlife Refuge, California for the purpose of enhancing their survival.

Permit No. TE-840622

Applicant: Coralie Hull Cobb, San Diego, California.

The permittee requests a permit amendment to take (harass by survey, collect, and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), vernal pool tadpole shrimp (*Lepidurus packardii*), and Riverside fairy shrimp (*Streptocephalus wootoni*) throughout each species' range in conjunction with surveys for the purpose of enhancing their survival.

DATES: Written comments on these permit applications must be received on or before January 4, 2002.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181; Fax: (503) 231-6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications 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 within 20 days of the date of publication of this notice to the address above; telephone: (503) 231-2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: November 19, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01-30042 Filed 12-4-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE-814933

Applicant: Texas Parks & Wildlife Department, Austin, Texas.

Applicant requests a permit to collect plant materials for research and recovery purposes from the following plant species within Texas: Ashy dogweed (*Thymophylla tephroleuca*), Black lace cactus (*Echinocereus reichenbachii* var. *albertii*), Bunched cory cactus (*Coryphantha ramillosa*), American chaffseed (*Schwalbea americana*), Chisos Mountains hedgehog cactus (*Echinocereus chisoensis* var. *chisoensis*), Davis' green pitaya (*Echinocereus viridiflorus* var. *davisii*), Hinkley Oak (*Quercus hinckleyi*), Johnston's frankenia (*Frankenia johnstonii*), Large-fruited sand-verbena (*Abronia macrocarpa*), Little Aguja pondweed (*Potamogeton clystocarpus*), Navasota ladies' tresses (*Spiranthes parksii*), Nellie cory cactus (*Coryphantha minima*), Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*), Slender rush-pea (*Hoffmannseggia tenella*), Sneed pincushion cactus (*Coryphantha sneedii* var. *sneedii*), South Texas ambrosia (*Ambrosia cheiranthifolia*), Star cactus (*Astrophytum asterias*), Terlingua Creek cat's eye (*Cryptantha crassipes*), Texas trailing phlox (*Phlox nivalis* ssp. *Texensis*), Texas ayenia (*Ayenia limitaris*), Texas poppy-mallow (*Callirhoe scabriuscula*), Texas prairie dawn-flower (*Hymenoxys texana*), Texas snowbells (*Styrax texana*), Tobusch fishhook cactus (*Ancistrocactus tobuschii*), Walker's manioc (*Manihot walkerae*), White bladderpod (*Lesquerella pallida*), and Zapata bladderpod (*Lesquerella thamnophila*). Applicant also requests

authorization to conduct presence/absence surveys for the Ocelot (*Felis pardalis*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Red-cockaded woodpecker (*Picoides borealis*), Northern aplomado falcon (*Falco femoralis septentrionalis*), Whooping Crane (*Grus americana*) and Interior least tern (*Sterna antillarum*) within Texas.

Permit No. TE-049001

Applicant: Plateau Integrated Land and Wildlife Management, Dripping Springs, Texas.

Applicant requests a permit to conduct presence/absence surveys and nest monitoring for the Golden-cheeked warbler (*Dendroica chrysoparia*) and Black-capped vireo (*Vireo atricapillus*) within Texas.

Permit No. TE-050021

Applicant: Greg Clark, Chandler, Arizona.

Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the Cactus Ferruginous Pygmy Owl (*Glaucidium brasilianum*) in Pima County, Arizona.

Permit No. TE-050241

Applicant: Carothers Environmental, LLC, Sedona, Arizona.

Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Hualapai Mexican Vole (*Microtus mexicanus hualpaiensis*), Humpback chub (*Gila cypha*), Razorback sucker (*Xyrauchen texanus*), and Kanab ambersnail (*Oxyloma haydeni kanabensis*) within Arizona, New Mexico, Oklahoma and Texas.

DATES: Written comments on these permit applications must be received on or before January 4, 2002.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248-6649; Fax (505) 248-6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part

of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications 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 within 30 days of the date of publication of this notice, to the address above.

Susan MacMullin,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 01-30053 Filed 12-4-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Karner Blue Butterfly (*Lycaeides melissa samuelis*) Technical/Agency Draft Recovery Plan for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces availability for public review of a technical/agency draft recovery plan for the endangered Karner blue butterfly (*Lycaeides melissa samuelis*). The Karner blue butterfly is known to presently occur in seven states: Minnesota, Wisconsin, Michigan, Indiana, New Hampshire, New York, and Ohio, where it was recently reintroduced. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before April 4, 2002 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor of the Green Bay Ecological Services Field Office, U.S. Fish and Wildlife Service, 1015 Challenger Court, Green Bay, Wisconsin 54311 or by accessing the website: <http://midwest.fws.gov/endorsed>. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received will be available, by appointment, for public inspection during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Carnes, (at the above address) Telephone: (920) 465-7415. TTY users may contact Ms. Carnes through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for reclassification and delisting, and an estimate of time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et. seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and opportunity for public review and comment to be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The document submitted for review is the Karner Blue Butterfly (*Lycaeides melissa samuelis*) Technical/Agency Draft Recovery Plan. Historically, the butterfly occurred in 12 states and the Province of Ontario. Its current range has been reduced to seven states: Minnesota, Wisconsin, Michigan, Indiana, New Hampshire, New York, and Ohio, where it was recently reintroduced. Three of these states (Ohio, New Hampshire, and Minnesota) have only one extant Karner blue butterfly population. Wisconsin and Michigan support the majority of populations throughout the range.

The Karner blue butterfly was listed as endangered on January 21, 1992. The butterfly depends on savanna and barrens habitats that support wild lupine (*Lupinus perennis*), the only plant Karner blue larvae (or caterpillars) are known to feed on. Threats to the butterfly include continued loss and alteration of habitat due to commercial, residential, and agricultural

development, fragmentation, and degradation through succession. Today, the butterfly inhabits remnant savanna and barrens habitats, as well as other more disturbed habitat sites including younger forest stands, military bases, utility and roadway rights-of-way, and airports.

The primary objective of the draft recovery plan is to restore and protect an adequate number of Karner blue butterfly populations throughout its range to ensure long-term viability of the species in the wild. The plan proposes a total of 13 recovery units throughout a six state recovery area (Minnesota, Wisconsin, Michigan, Indiana, New York, and New Hampshire). In order to reclassify the butterfly from endangered to threatened status, the plan proposes the establishment of at least 28 metapopulations within the recovery units. In order to remove the butterfly from the Federal list of "Threatened and Endangered Species," the plan recommends a minimum of 29 metapopulations be established throughout the recovery units.

The draft recovery plan presents a blueprint for action by Federal and state agencies, as well as other organizations, and private landowners interested in helping in the recovery of this endangered species. Recovery actions include restoration and protection of Karner blue butterfly habitat, population monitoring, continued refinement of habitat management guidelines, research to guide habitat management and captive propagation efforts, and education and outreach efforts. Working with Federal, state and private landowners on a voluntary basis will be necessary to reduce the threats, and conserve, protect, and manage key habitat areas for the Karner blue butterfly.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan. Comments should be sent to the Field Supervisor, Ecological Services Field Office, at the above address.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: November 9, 2001

T.J. Miller,

Acting Assistant Regional Director, Ecological Services.

[FR Doc. 01-30079 Filed 12-4-01; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-027-1220-DG; G 2-0019]

Steens Mountain Advisory Council; Meetings

AGENCY: Bureau of Land Management (BLM), Burns District, Interior.

ACTION: Meetings notice for the Steens Mountain Advisory Council.

SUMMARY: The Steens Mountain Advisory Council (SMAC) will meet at the Bureau of Land Management (BLM), Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738, on December 17 and 18, 2001; January 24 and 25, 2002; February 28 and March 1, 2002; April 4 and 5, 2002; June 13 and 14, 2002; October 21 and 22, 2002; and December 2 and 3, 2002; and will meet in Frenchglen, Oregon 97736 on August 15 and 16, 2002. All meeting sessions will begin the first day at 8 a.m., local time, and will end at 5 p.m., local time. The second day of each session will begin at 8 a.m., local time, and will end at approximately 3 p.m., local time. The April 4 and 5, 2002; June 13 and 14, 2002; and August 15 and 16, 2002, meeting sessions will consist of meetings on April 4, June 13, and August 15, followed by tours of the Steens Mountain Cooperative Management and Protection Area (CMPA) on April 5, June 14, and August 16, 2002, weather dependent. Topics to be discussed by the SMAC at the December 17 and 18, 2001, meeting include selection of a chairperson; facilitation needs; Subbasins, Analysis of the Management Situation, Interim Management Policy, and Special Recreation Permit Policy review; Federal Advisory Committee Act; cooperative agreements/incentives; winter recreation; signs; and other matters as may reasonably come before the SMAC. Future meetings will cover categories such as education; transportation; recreation/public use; special designated areas; cultural resources; watersheds; projects; wildlife; partnerships/programs; volunteer-based information; adaptive management; planning process; science committee/consultants; and socioeconomics. All meetings and tours are open to the public in their entirety. Information to be distributed to the SMAC is requested 10 days prior to the start of each SMAC meeting. Public comment is scheduled for 11 a.m. to 11:30 a.m., local time, the first day of each meeting session. The amount of time scheduled for public presentations and meeting times may be extended when the authorized

representative considers it necessary to accommodate all who seek to be heard regarding matters on the agenda.

The SMAC was appointed by the Secretary of the Interior on August 14, 2001, pursuant to the Steens Mountain Cooperative Management and Protection Act of 2000 (Act). The SMAC's purpose is to provide representative counsel and advice to the BLM regarding (1) new and unique approaches to management of the land within the bounds of the Steens Mountain CMPA, (2) cooperative programs and incentives for landscape management that meet human needs, maintain and improve the ecological and economic integrity of the area, and (3) preparation and implementation of a management plan for the Steens CMPA.

Under the Federal Advisory Committee Act management regulations (41 CFR 102-3.15(b)), in exceptional circumstances an agency may give less than 15 days notice of committee meeting notices published in the **Federal Register**. In this case, this notice is being published less than 15 days prior to the meeting due to the urgent need to meet legislative deadlines to complete the Steens CMPA management plan and to avoid additional delays.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SMAC may be obtained from Rhonda Karges, Management Support Specialist, Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738, (541) 573-4433, or Rhonda_Karges@or.blm.gov or from the following Web site <http://www.or.blm.gov/Steens>.

Dated: October 25, 2001.

Thomas H. Dyer,
Burns District Manager.

[FR Doc. 01-30278 Filed 12-4-01; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Office of Planning and Performance Management; Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Department of the Interior.

ACTION: Notice of new information collection survey.

SUMMARY: To comply with the requirements of the Paper Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR) for the Department of the Interior (DOI) to conduct voluntary customer satisfaction

surveys to gather input and feedback from the public. The ICR is entitled "DOI Programmatic Clearance for Customer Satisfaction Surveys." We are also soliciting comments from the public on this ICR.

DATES: Please submit written comments by January 4, 2002.

ADDRESSES: You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1040-NEW), 725 17th Street, NW., Washington, DC 20503. Mail or handcarry a copy of your comments to the Department of the Interior; Office of Planning and Performance Management; Mail Stop 5258-MIB; 1849 C Street, NW., Washington, DC 20240. If you wish to email comments, the email address is:

Norma_Campbell@os.doi.gov. Reference "DOI Programmatic Clearance for Customer Satisfaction Surveys" in your email subject line. Include your name and return address in your email message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: Norma Campbell, Office of Planning and Performance Management, telephone (202) 208-1818. You also may contact this office to obtain at no cost a copy of the collection of information that will be submitted to OMB.

SUPPLEMENTARY INFORMATION:

Title: DOI Programmatic Clearance for Customer Satisfaction Surveys.

OMB Control Number: 1040-NEW.

Abstract: The mission of DOI is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities. DOI's Strategic Plan Overview (FY 2000-2005) lays out five goals as a framework for this work: (1) Protect the environment and preserve our Nation's natural and cultural resources; (2) provide recreation for America; (3) manage natural resources for a healthy environment and our strong economy; (4) provide science for a changing world; and (5) meet our trust responsibilities to Indian Tribes and our commitments to island communities. Each bureau's plan also contains goals requiring collaboration with the public—our partners and customers. Part of this communication occurs through occasional surveys of the different users and stakeholders of DOI's products and services.

In the spirit of the PRA, DOI is consolidating its ICRs related to customer surveys for all participating

offices and bureaus into one programmatic ICR. This single ICR will ease the public burden by submitting a generic format and set of standards that all customer survey-related collections would follow in DOI. Because the participating bureaus and offices have differing customer and stakeholder groups, there will not be one "boiler-plate" approach to customer research. The ICR will describe those differences, where apparent. Although, where applicable, similar questions will be asked in the surveys of the bureaus and offices to allow better benchmarking throughout DOI.

Background

The Government Performance and Results Act (GPRA) of 1993 (Pub.L. No. 103-62) sets out to "improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction" (Section 2.b.3). In order to fulfill this responsibility, DOI's bureaus and offices must collect data from their respective user groups to (1) better understand the needs and desires of the public and (2) respond to those needs and desires accordingly.

This course of action is fortified by Executive Order (E.O.) 12862 (September 11, 1993) aimed at "ensuring the Federal Government provides the highest quality service possible to the American people." The E.O. discusses surveys as a means for determining the kinds and qualities of service desired by the Federal Government's customers and for determining satisfaction levels for existing service. These voluntary customer surveys will be used to ascertain customer satisfaction with DOI's bureaus and offices in terms of services and products. Previous customer surveys have provided useful information to DOI's bureaus and offices for assessing how well we deliver our services and products, making improvements, and reporting on annual performance goals as set out in GPRA-related documents. The results are used internally, and summaries are provided to OMB on an annual basis and are used to satisfy the requirements and spirit of E.O. 12862.

Furthermore, E.O. 12862 requires agencies to provide a "means to address customer complaints." To that end, bureaus and offices may use customer comment cards as an opportunity for customers to provide feedback to the agencies on the service they have received.

More recently, President Bush's Management Agenda for 2001 calls for citizen-centered government. The

Secretary of the Interior's August 3, 2001 memorandum, "Management Excellence and Citizen-Centered Service," directs bureaus and offices to focus on citizen-centered governance. The proposed OMB Guideline for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Dissemination by Federal Agencies would require agencies to submit annual reports "detailing the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines." Comment cards and other survey methods facilitated by this programmatic clearance would provide valuable information to assist DOI's bureaus and offices in following the Administration's guidance.

In addition to GPRA and E.O. 12862, the statutes, regulations, and Secretarial Orders that created each of the bureaus and offices further enhance the need to engage the public and deliver quality products and services to our customers.

The participating DOI bureaus and offices anticipate performing their customer surveys under one ICR. Under this proposal, DOI would request that OMB review the procedures and question areas for these surveys as a program, rather than reviewing each survey individually. Under the procedures proposed here, DOI would conduct the necessary quality control (through a "secondary office of control" within DOI), including assurances that the individual survey comports with the guidelines in this proposed programmatic ICR, and submit the particular survey instruments and methodologies for expedited review to OMB.

Participating Bureaus and Offices

The proposed ICR covers most of the organizational agencies in DOI. However, the National Park Service, which has one of the most mature customer survey programs in the Federal Government, will continue under its own separate clearance given the complexity and specificity of its program. The participating bureaus and offices covered under the proposed ICR include:

- Bureau of Indian Affairs
- Bureau of Land Management (BLM)
- Bureau of Reclamation
- US Fish & Wildlife Service
- Office of Insular Affairs
- Minerals Management Service
- Office of the Secretary
- Office of Surface Mining
- US Geological Survey (USGS)

Current Actions

The request to OMB will be for a 3-year clearance to conduct customer

satisfaction surveys in the participating DOI bureaus and offices. USGS and BLM, who have developed customer research programs, are currently operating under 3-year programmatic clearances. Other participating bureaus and offices have handled their ICRs on a case-by-case basis.

For example, under existing approvals, USGS in 2000 surveyed users of the on-line National Atlas, State and Federal land managing and natural resource agencies, customers of Eros Data Center (digital data and maps), and customers of Earth Science Information Centers (topographic maps, USGS publications). Over the last 3 years, BLM has surveyed users of recreation areas, grazing permittees, oil and gas permittees, stakeholders and partners, and public room users, as well as conducted focus groups with various customer groups. These collections occur through one of six methodologies: (1) Intercept (a customer interacting in person with one conducting the survey); (2) telephone interviews; (3) mail surveys; (4) web-based surveys; (5) focus groups; and (6) voluntary use of comment cards.

Examples of previously conducted customer surveys are available upon request. Our planned activities in the next 3 fiscal years reflect our increased emphasis on and expansion of these activities throughout DOI.

Methodology

In all customer research, the goal of DOI is to employ the best statistical models that, in turn, will lead to the best data from which sound management decisions can be made. Therefore, an 80 percent response rate has been set for all customer surveys, with a 70 percent response rate as base threshold.

Different user and stakeholder groups function and interact with the respective bureaus and offices in different ways. In order to meet the response rate goal, six different methodologies will be available for use. The methodology will be chosen based on achieving statistical accuracy while keeping the cost as low as possible. The six methodologies that DOI's bureaus and offices will employ are: (1) Intercept, (2) telephone interviews, (3) mail surveys, (4) web-based surveys, (5) focus groups, and (6) comment cards. In all cases, the goal is to achieve the 95 percent confidence level with a sampling error no greater than ± 5 percent. The total number of respondents sought for each survey will be based on achieving this level. In most cases, the respondent base will be pulled from a randomized sample of the

user population, and where necessary, a stratified sample will be used to achieve accurate statistical measures at the appropriate National, State, or regional level. In some cases where the user population is small, the entire population will need to be surveyed.

Intercept: In a face-to-face situation, the survey instrument is provided to a respondent who completes it while on site and then returns it. The survey proctor is prepared to answer any questions the respondent may have about how to fill out the instrument but does not interfere or influence how the respondents answer the questions. This methodology provides the highest response rate—typically between 80–85 percent.

Telephone: Using existing databases, an interviewer will contact customers who have had a specific experience with the agency. The interviewer will dial back until the customer has been reached. Once contacted, the survey respondent is given a brief introduction to the survey, including its importance and use. The interviewer will then expeditiously move through the survey questions. When this methodology is employed, the typical response rate is between 70 and 85 percent, depending on the customer group.

Mail: Using existing lists of customer addresses, a three contact-approach based on Dillman's "Tailored Design Method" will be employed. The first contact is a cover letter explaining that a survey is coming to them and why it is important to the agency. The second contact will be the survey instrument itself along with a postage-paid addressed envelope to return the survey. The third contact will be a reminder postcard sent 10 days after the survey was sent. Finally, the respondents will receive a letter thanking them for the willingness to participate in the survey and reminding them to return it if they have not already done so. At each juncture, the respondents will be given multiple ways to contact someone with questions regarding the survey (including phone, FAX, web, and email). If the survey has been lost, the respondent can request that another be sent to them. Electronic mail is sometimes used instead of postal mail to communicate with customers. Although this is a cost-effective mode to survey a large group of people, it does not usually generate the best response rate. Telephone calls to non-respondents can be used to increase response rates.

Web-based: For products or services that are provided through electronic means, whether e-commerce or web-based information, a web or email survey may be most appropriate. During

the course of their web interaction, users can volunteer to add their name to a list of future surveys. From this list, a respondent pool will be selected in accordance with the sampling procedures outlined above. An email will be sent to them explaining the need and importance of the survey with a web link to the survey. Within 5 days, a follow-up email will be sent to the respondents reminding them to complete the survey. Finally, the respondents will receive an email thanking them for the willingness to participate in the survey and reminding them to complete it if they have not already. The respondent will always have the option to submit the survey in paper form, should they elect to do so.

Focus Groups: Some data and information are best collected through more subjective, conversational means. A focus group is an informal, small-group discussion designed to obtain in-depth qualitative information. Individuals are specifically invited to participate in the discussion, whether in person or through technologically enhanced means (i.e., video conferencing, on-line sessions). Participants are encouraged to talk with each other about their experiences, preferences, needs, observations, or perceptions. A moderator whose role is to foster interaction leads the conversation. The moderator makes sure that all participants are encouraged to contribute and that no individual dominates the conversation. Furthermore, the moderator manages the discussion to make sure it does not stray too far from the topic of interest. Focus groups are most useful in an exploratory stage or when the bureaus and offices want to develop a deeper understanding of a program or service.

Using the best in focus group research practices, groups will be constructed to include a cross-section of a given customer group. The questions and additional probes used during the focus groups will be consistent with the "guideline menu" discussed below.

Comment Cards: As discussed in the Background section above, agencies have been instructed to provide a means to address customer complaints. To facilitate this, comment cards may be employed. Comment cards, when provided to a customer at the time a product or service is provided, offer an excellent means to give the bureaus and offices feedback. A comment card should have a limited number of questions and an opportunity to comment. These comment cards provide managers and service providers with direct, specific, and timely information from their customers about new service

problems as they crop up, or extraordinary performance, that could not be obtained through any other means.

Electronic users may be offered the opportunity to complete a comment card via a "pop-up" window (or other web-enabled means that may be available). The "pop-up" window will not appear for every user; rather, the users will be randomly selected to receive the survey. This practice is widely used in private industry. In other instances, the electronic user may be offered the option to self-select in answering the electronic comment card.

Whether using paper or electronic comment cards, the intent is to provide a feedback mechanism. The data are not intended to be statistically significant. Although questions may include numeric scales, those data should be considered only in an anecdotal fashion and not reported as a significant measure.

Remuneration/Incentives: A great deal of the literature related to customer satisfaction research recommends that incentives, monetary and non-monetary, be used to increase response rates (see D. Dillman publications, specifically *Mail and Internet Surveys*, 2000). Although bureaus and offices acting in wholly a regulatory role would not seek to provide remuneration to their permittees, bureaus and offices that operate in a more service-related mode may find incentives to be both helpful and appropriate. Therefore, DOI proposes to handle remuneration/incentives on a case-by-case basis as part of the expedited OMB review (i.e., the 10-day expedited OMB review). An agency may propose non-monetary incentives; such as a discount at an on-site book store, a small souvenir, or complimentary access to a facility/site.

Topic Areas: The participating bureaus and offices propose to survey customers in the following general categories:

- Authorized public land uses (i.e., rights-of-way, land management transactions, mining, recreation, oil and gas, grazing, wildlife photographers, hunters, and fishers)
- Coal operators
- Contractors/vendors
- Disabled persons and groups representing disabled persons
- Educators/researchers
- Environmental groups
- Governments representatives (State, local, and foreign)
- Grant recipients
- Indian Tribes/Alaskan Natives/Native Americans
- Industry groups (i.e., mining, oil and gas)

- Insular governments
- Interested publics/special interest groups (i.e., Friends groups for wildlife refuges)
- Law enforcement authorities, custom brokers, and brokers' associations
- Local communities
- Private and public land stakeholders (i.e., hunting, fishing, farming, banking, legal, real estate representatives, and land trust operators)
- Public information center users
- Scientific data users and technical assistance recipients
- State wildlife agencies' representatives
- Taxidermists and falconers
- Technical training recipients
- Trade organizations
- Utilities' representatives
- Visitors/Recreation
- Volunteers (past, present, prospective)
- Zoo, aquarium, and botanical garden stakeholders

There are 11 topic areas that the participating bureaus and offices are proposing to voluntarily obtain information from their customers and stakeholders. No one survey will cover all the topic areas; rather, this serves as a "guideline menu" from which the agencies would develop their questions. Example(s) of the types of questions that would be asked under each topic are provided. Under the proposed ICR, the agencies could use these specific questions or develop questions that fit within the generally understood confines of the topic area. Questions may be asked in languages other than English, i.e., Spanish, where appropriate.

The surveys could be designed using one of two generally accepted modes: (a) A statement for which the respondent uses a scaled answer (i.e., strongly agree, strongly disagree, not applicable, etc., based on a Lichert Scale) or (b) a question that asks for a specific response (i.e., yes/no, demographics, open-ended improvement question, etc.). For questions that use the Lichert scale and a preset list of options, the data will be reported in a numeric fashion, including average response and percent favorable. Open-ended questions will be subjected to a content analysis and be reported on accordingly.

1. Communication/information/education:
 - a. Providing consistent and timely information to the public.
 - b. Where did you obtain your information about this site?
 - c. Making it easy for people to find out about proposed changes.

d. Educating people about particular processes.

e. Providing accurate, detailed and affordable maps and brochures.

f. Providing useful web site, signs, publications, and exhibits.

g. Charging an appropriate fee for the information/material provided.

h. The information provided was effective and helpful.

i. Providing quality web-based information.

j. Engaging the public in the planning process.

2. Disability accessibility:

a. Do you or does someone in your party have a disability?

b. If yes, how well does the agency make buildings, facilities, and trails accessible to people with disabilities?

c. Accessibility to the programs and activities that address my needs.

3. Facilities:

a. Maintaining roads and trails.

b. Maintaining a clean recreation site.

c. Providing entrance/directional signs to sites and facilities.

d. Providing a facility that is conducive to meeting specific user needs.

4. Management practices:

a. Responding to issues and problems in a timely manner.

b. Providing access to a supervisor to resolve the problem.

c. Understanding my needs.

d. If you could make one improvement to XXX service, what would it be?

5. Resource management:

a. Providing reasonable access to resources.

b. The extent to which the natural and cultural resources are protected.

c. Getting public input when identifying critical areas for conservation.

d. Preserving water resources and habitat for fish, wildlife, and plants.

6. Rules, regulations, policies:

a. Ensuring public awareness of rules and regulations.

b. Ensuring fair and consistent policies for all users.

c. The rules, regulations, and policies are clear and in plain language.

d. Providing adequate protest and appeal policies to resolve issues and disputes.

e. Adequately enforcing rules and regulations for all users.

7. Service delivery:

a. Providing a single point of contact.

b. The staff I interacted with were courteous and friendly.

c. The staff I interacted with were knowledgeable about the rules and regulations.

d. The staff I interacted with were able to answer my questions about natural, historic, and cultural resources.

e. The staff listened to and considered my ideas.

f. The training I received provided the information I needed.

g. The response was timely.

8. Technical assistance:

a. Provides unbiased scientific and technical support products and services.

b. Reflects reasonable pricing.

c. Quality of the execution of the analysis and interpretation.

d. Considered alternative interpretations.

e. Provides useful information.

9. Program-specific: These questions will reflect the specific details of a program that pertain to their customer respondents. The questions will be developed to address very specific and/or technical issues related to the program. The questions will be geared toward gaining a better understanding about how to provide specific products and services as well as the priority the public would give to specific program objectives; they will not ask the respondents for their opinions about policies.

10. Overall satisfaction:

a. Everything considered, how would you rate your overall satisfaction with the delivery of XXX program or service?

b. Values my relationship as a customer.

c. I will contact or visit again for information or services.

d. I trust XXX agency to do a good job performing XXX mission.

11. General demographics:

a. What is your zip code?

b. How many times have you used this service in the previous 12 months?

c. How many people are in your group?

d. What activities did you participate in?

e. As part of your recreation in this site/area, approximately how much money did you spend in the local community/area (e.g. lodging, equipment, food, fuel, maps/books, tours, guides)?

f. What was your total household income (before taxes) in 2000 (less than \$20,000; \$20,000 to \$39,999; \$40,000 to \$59,999; \$60,000 to \$79,999; \$80,000 to \$99,999; \$100,000 to \$119,999; \$120,000 or more)?

g. What is the highest level of education you have completed (some high school or less; high school graduate or GED; business school, trade school, or some college; college graduate; some graduate school; masters, Ph.D., or professional degree)?

h. What is the primary language spoken at home? (i.e., English, Spanish)

i. In what ethnic group would you place yourself (Hispanic/Latino or non-Hispanic/Latino)?

j. In what race would you place yourself (American Indian, Eskimo, Aleut; Asian or Pacific Islander; Black or African American; White; Native Hawaiian)? Select one or more.

Uses of Data: Chiefly, these data are being collected to improve the service and products that the participating bureaus and offices provide to the public. Managers and program specialists use these data to identify:

- Service needs of customers
- Strengths and weaknesses of services
- Ideas or suggestions for improvement of services from our customers
- Barriers to achieving customer service standards
- Changes to customer service standards
- Baselines to measure change in improving service delivery over time
- Improving public trust in government

They also use this information to support all aspects of planning, from buildings, roads, and interpretive exhibits, to technical systems. In conducting their management, planning, and monitoring activities, managers also use the information to effectively allocate their limited personnel and financial resources to the highest priority elements.

While the information will not be used for regulatory development, DOI anticipates that the information obtained could lead to reallocation of resources, revisions in certain agency processes and policies, and development of guidance related to the agency's customer services. Ultimately, these changes should result in improvement in services DOI provides to the public and, in turn, the public perception of DOI.

In fulfilling the requirements of GPR, DOI and all of its bureaus and offices have created a Strategic Plan in coordination with their respective publics. GPR requires DOI to annually report on its progress toward achieving the goals outlined in the Annual Performance Plan. Some of the data collected may be used as the basis or in support of specific performance measures.

Frequency: The frequency varies by survey.

Estimated Number and Description of Respondents: See attached "Table: Customer Types by Participating Bureau/Office" for list of respondents. This table shows the likely groups that would be surveyed by each bureau and office but is not intended to limit the bureaus and offices to such groups.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: We estimate that there are approximately 120,000 respondents submitting 120,000 responses (surveys and comment cards) annually. The average public reporting burden for a customer survey is estimated to be 15 minutes per respondent. For comment cards, the average public reporting burden is estimated to be 3 minutes per response. Given these estimates, DOI anticipates a budget of 18,000 hours per year for these proposed collections. We estimate, base on a \$15 per hour valuation of volunteer time and the projected budget hours, an approximate aggregate cost to respondents of \$270,000. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information, including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for purposes of collecting, validating, verifying, processing, maintaining, disclosing, and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting or otherwise disclosing information. Please comment on the accuracy of our estimates and how DOI's bureaus and offices could minimize the burden of the collection information, including the use of automated techniques.

Estimated Annual Reporting and Recordkeeping "Non-Hour cost"

Burden: We have identified no "non-hour costs" burdens.

Public Disclosure Statement: The PRA provides that a Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology. Furthermore, we are interested in your comments regarding the need for and appropriateness of remuneration/ incentives, or other suggestions you may have to increase response rates.

To comply with the public consultation process, on August 8, 2001, we published a **Federal Register** Notice (66 FR 41600) announcing that we would submit this ICR to OMB for approval. The notice provided the

required 60-day comment period. No public comments were received.

If you wish to comment in response to this notice, send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by January 4, 2002.

Public Comment Policy: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you, as a commenter, wish us to withhold your name and/or address, you must state this prominently as the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives of organizations or businesses, available for public inspection in their entirety.

DOI Information Collection Contact: Office of Planning and Performance Management (202) 208-1818.

Dated: November 13, 2001.

Norma J. Campbell,
Director, Office of Planning and Performance Management.

TABLE.—CUSTOMER TYPE BY PARTICIPATING BUREAU/OFFICE

	Description	BIA	BLM	BOR	FWS	Insular Aff	MMS	OAPM	OEP	OSM	USGS
Authorized public land uses	ROW; Land Mgmt transactions, min.	x	.....	.....	.....	.....	.....	.....	.....	.....	.....
Coal operators	Concessionaires	x	.....	.....	x	.....	.....	x	.....	x	.....
Contractors/vendors .....		.....	.....	.....	x	.....	.....	.....	.....	.....	.....
Disabilities	State, local, foreign .....	.....	x	.....	x	.....	.....	.....	.....	.....	.....
Environmental groups .....		.....	x	.....	x	.....	x	.....	.....	.....	x
Governments .....		.....	x	x	x	x	.....	x	.....	.....	x
Grant recipients .....		.....	.....	.....	.....	.....	.....	.....	x	.....	.....
Indian Tribes/Alaskan villages.		x	.....	.....	x	.....	.....	.....	.....	x	x
Industry groups .....		.....	x	x	x	.....	x	x	.....	.....	x
Insular governments .....		.....	.....	.....	.....	x	.....	.....	.....	.....	.....
Interested publics	Community and specific-interest groups.	.....	.....	x	x	.....	x	.....	.....	x	x
Law Enforcement	Forensics, importers/exporters.	.....	.....	.....	x	.....	.....	.....	.....	.....	.....
Mining companies .....		.....	.....	.....	.....	.....	.....	.....	.....	.....	x
Public information centers ..		.....	x	.....	x	.....	.....	.....	.....	.....	.....
Scientific data users	GIS .....	.....	.....	.....	x	.....	.....	.....	.....	.....	.....
State governments		x	x	x	x	.....	x	.....	.....	x	x
State wildlife agencies	State biologists	x	.....	.....	x	.....	.....	.....	.....	.....	.....
Universities/Educators .....		.....	.....	x	x	.....	x	x	x	.....	.....

TABLE.—CUSTOMER TYPE BY PARTICIPATING BUREAU/OFFICE—Continued

	Description	BIA	BLM	BOR	FWS	Insular Aff	MMS	OAPM	OEP	OSM	USGS
Utilities .....		.....	.....	X	.....	.....	.....	.....	.....	.....	.....
Visitors/Recreation	Visitors to federal land, bird watcher.	.....	X	X	X	.....	.....	.....	.....	.....	.....

[FR Doc. 01-30029 Filed 12-4-01; 8:45 am]

BILLING CODE 4310-RK-P

DEPARTMENT OF THE INTERIOR**Bureau of Reclamation****American River Pump Station Project, Placer County, California**

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of extension of time for review of draft environmental impact statement/environmental impact report (EIS/EIR).

SUMMARY: The Bureau of Reclamation (Reclamation) is extending the public review period for the Draft EIS/EIR for the PCWA American River Pump Station Project to December 13, 2001. The notice of availability for the Draft EIS/EIR was published in the **Federal Register** on September 13, 2001 (66 FR 47685-47686). The public review period was originally to end on November 13, 2001.

DATES: Public comments on the Draft EIS/EIR should be submitted on or before December 13, 2001.

ADDRESSES: Written comments on the Draft EIS/EIR should be addressed to Ms. Carol Brown, Surface Water Resources, Inc., 2031 Howe Avenue, Suite 110, Sacramento, California 95825. Requests for a printed copy of the Draft Programmatic EIS/EIR should also be addressed to Ms. Carol Brown.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Mr. Roderick Hall, Reclamation, at (916) 989-7279, TDD (916) 980-7285, or e-mail rhall@mp.usbr.gov; or Mr. Brent Smith, PCWA, at (530) 823-4889, or e-mail at bsmith@pcwa.net.

Dated: November 16, 2001.

Frank Michny,

Regional Environmental Officer.

[FR Doc. 01-30095 Filed 12-4-01; 8:45 am]

BILLING CODE 4310-MN-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-267 and 268 (Review) (Remand)]

Top-of-Stove Stainless Steel Cooking Ware From Korea and Taiwan; Notice and Scheduling of Remand Proceedings

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The U.S. International Trade Commission (the Commission) hereby gives notice of the court-ordered remand of its final antidumping investigation in Top-of-Stove Stainless Steel Cooking Ware from Korea and Taiwan No. 731-TA-267 and 268 (Review).

EFFECTIVE DATE: November 29, 2001.

FOR FURTHER INFORMATION CONTACT:

George Deyman, Office of Investigations, telephone 202-205-3197 or Laurent de Winter, Office of General Counsel, telephone 202-708-5452, U.S. International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION**Reopening of the Record**

For purposes of its determination on remand, the Commission is reopening the record in this investigation for the limited purpose of (1) seeking basic information regarding subject product from Taiwan and (2) seeking to cure the possible inclusion of non-subject products in official import data. The Commission will provide the parties an opportunity to file comments on any new information received pertaining to these subjects. A schedule for the submission of such comments will be published shortly.

Participation in the Proceedings

Only those persons who were interested parties to the original administrative proceedings (i.e., persons listed on the Commission Secretary's

service list) may participate in these remand proceedings.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Information obtained during the remand investigation will be released to parties under the administrative protective order ("APO") in effect in the original investigation. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make business proprietary information gathered in the final investigation and this remand investigation available to additional authorized applicants, that are not covered under the original APO, provided that the application is made not later than seven (7) days after publication of the Commission's notice of reopening the record on remand in the **Federal Register**. Applications must be filed for persons on the Judicial Protective Order in the related CIT case, but not covered under the original APO. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO in this remand investigation.

Authority: This action is taken under the authority of the Tariff Act of 1930, title VII.

Issued: November 29, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01-30075 Filed 12-4-01; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE**Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act**

In accordance with Departmental policy, notice is hereby given that on November 14, 2001, a proposed consent decree in the case captioned *Dow Chemical Co., et al. v. Acme Wrecking Co., Inc., et al.*, Civil Action Nos. C-1-97-0307, C-1-97-0308, and C-1-01-439 (S.D. Ohio), was lodged with the United States District Court for the Southern District of Ohio. The proposed

de minimis consent decree relates to the Skinner Landfill Superfund Site ("Site") in West Chester, Ohio. The proposed consent decree would resolve civil claims of the United States for response actions and for the recovery of response costs at the Site under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9606, 9607(a), against Sealy, Inc., and Sealy Mattress Co. (collectively "Sealy"), Acme Wrecking Co., Inc. ("Acme Wrecking"), and the David Hirschberg Co. ("Hirschberg"). Under the proposed consent decree: (1) Sealy would pay the United States \$23,695, and would pay the parties that are performing the work at the Site (the "Skinner Landfill Site Group") \$94,780; (2) Acme Wrecking would pay the United States \$14,000 and would pay the Skinner Landfill Site Group \$56,000; and (3) Hirschberg would pay the United States \$3,800, and would pay the Skinner Landfill Site Group \$15,200.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resource Division, Department of Justice, Washington, D.C. 20530, and should refer to *Dow Chemical Co. et al. v. Acme Wrecking Co., Inc. et al.*, Civil Action Nos. C-1-97-0308, and C-1-01-439 (S.D. Ohio), and DOJ Reference No. 90-11-3-1620/2.

The proposed consent decree may be examined at: (1) the Office of the United States Attorney for the Southern District of Ohio, 220 U.S.P.O. & Courthouse, 100 E. 5th St., Cincinnati, OH 45202; and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. Copies of the proposed consent decrees may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting copies, please refer to the above-referenced case and DOJ Reference Number and enclose a check for \$10.50 (42 pages at 25 cents per page reproduction cost) made payable to the Consent Decree Library.

William D. Brighton,

Assistant Section Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01-30156 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department of Justice policy codified at 28 CFR 50.7 and Section 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622, 42 U.S.C. 9622, notice is hereby given that on November 14, 2001, two proposed consent decrees in *United States v. American Allied Additives, Inc., et al.*, No. 00-01014, were lodged with the United States District Court for the Northern District of Ohio. The proposed consent decrees would settle the United States' claims against defendants Richard Henry and Rauh Rubber, Inc. under CERCLA §§ 106 and 107, 42 U.S.C. 9606 and 9607, in connection with the American Allied Additives Superfund Site ("Site") in Cleveland, Ohio. The proposed consent decree with Mr. Henry would also resolve his counterclaim against the United States for attorney fees and other expenses pursuant to 5 U.S.C. 504.

The U.S. Environmental Protection Agency ("EPA") incurred unreimbursed costs of approximately \$148,000 in responding to the release or threatened release of hazardous substances at the Site. Mr. Henry and Rauh Rubber, Inc. are liable for response costs at the Site as generators of waste disposed there and are subject to civil penalties for noncompliance with a Unilateral Administrative Order issued by EPA for the performance of an emergency removal at the site.

Under the proposed consent decrees, Mr. Henry agrees to pay a total of \$2,500 (\$500 for the claim under CERCLA Section 106, and \$2,000 for the claim under CERCLA Section 107), and Rauh Rubber, Inc. agrees to pay a total of \$10,000 (\$3,000 for the claim under CERCLA Section 106, and \$7,000 for the claim under CERCLA Section 107). Payment is due within thirty (30) days of entry of the respective consent decree. Mr. Henry also agrees to dismiss with prejudice his counterclaim against the United States. Further, Mr. Henry and Rauh Rubber, Inc. will receive a covenant not to sue and contribution protection for Site response costs, as well as a covenant not to sue for civil penalties for the violations alleged in the complaint.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments related to the proposed

consent decrees. Comments may be submitted on one or both consent decrees. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530, and should refer to *United States v. American Allied Additives, Inc., et al.*, Civil Action No. 00-01014; D.J. Ref. No. 90-11-2-1318.

The consent decrees may be examined at the Office of the United States Attorney, 1800 Bank One Center, 600 Superior Avenue, Cleveland, Ohio 44114, and at the U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the consent decrees may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of \$5.00 for one consent decree (20 pages at 25 cents per page reproduction cost), or \$10.00 for both consent decrees (40 pages at 25 cents per page reproduction cost).

William Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01-30155 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act of 1990

In accordance with Departmental policy, notice is hereby given that a proposed Consent Decree in *United States v. Equilon Pipeline Company, LLC, et al.*, ("Settling Defendants"), Civil Action No. H- 01 3171, was lodged on September 17, 2001, with the United States District Court for the Southern District of Texas.

In this action the United States and the State of Texas, pursuant to Section 1002 of the Oil Pollution Act of 1990, ("OPA"), 33 U.S.C. 2702, seek natural resource damages, including assessment costs, arising out of the discharge of oil and gasoline into the navigable waters of the United States and the State of Texas in the vicinity of the San Jacinto River on or about October 20, 1994.

The proposed Consent Decree provides for the Defendant's purchase of about 100 acres of replacement property and payment of \$250,000, to be used to construct estuarine and freshwater habitat. That payment will also produce about \$30,000 for management by the

Trustees of a mixed forest habitat preservation site to be acquired by the Defendants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, P.O. Box 7611, United States Department of Justice, Washington, D.C. 20044-7611, and should refer to *United States v. Equilon Pipeline Company, LLC, et al.*, DOJ Ref. 90-5-1-1-4376/1.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Texas, 911 Travis Street, Suite 1500, Houston, Texas 77208. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, United States Department of Justice, Washington, D.C. 20044-7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$6.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Tom Mariani,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01-30157 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Gallo Glass Company*, Civil Action No. C 01 3350 JL, (N.D. Cal.), was lodged with the United States District Court for the Northern District of California on November 8, 2001. This proposed Consent Decree concerns a complaint filed by the United States against Gallo Glass Company and Jack Neal and Son, Inc., pursuant to sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344 and imposes civil penalties against the Defendants for the excavation and deep ripping of 260 acres of wetlands and depositing fill material into approximately 12.5 acres of drainage, swales, and creeks in wetlands adjacent to Washoe Creek, a tributary to the Laguna de Santa Rosa Creek and Russian River, located on Stoney Point, near Cotati, Sonoma County, California. Defendants also cleared vegetation, woody debris, and placed large boulders/rip-rap on

approximately 1000 linear feet of Porter Creek in Twin Valley, near Windsor, in Sonoma County.

The proposed Consent Decree requires the payment of civil penalties in the amount of \$95,000 and prohibits the discharge of pollutants into the waters of the United States. In addition to the civil penalty, the Consent Decree requires Defendants, at their own expense and subject to approval by the Corps, to provide compensatory mitigation for the filled drainage, swales and creeks in accordance with the approved Mitigation Plan.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Charles O'Connor, United States Attorney's Office, 450 Golden Gate Ave., 16th Floor, San Francisco, CA 94102 and refer to *United States v. Gallo Glass Co.*

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of California, 450 Golden Gate Ave., 16th Floor, San Francisco, CA 94102.

Stephen Samuels,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 01-30154 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree with C & A Dairy in *United States v. Calvin and Annette VanDerVeen*, No. 00-1159-KI, was lodged on November 15, 2001, with the United States District Court for the District of Oregon.

The proposed Consent Decree would resolve a lawsuit filed by the United States against Defendants in the United States District Court for the District of Oregon on August 22, 2000. The complaint alleged that Defendants had discharged manure from the C & A Dairy, in McMinnville, Oregon, into a creek on at least four occasions between March 1998 and April 2000, in violation of sections 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) & (d); the complaint also alleged that Defendants had failed to comply with a 1998 EPA administrative order to cease discharging and to prepare a corrective action plan. The proposed Consent Decree provides for the payment of a

\$1,000 civil penalty and contains a prohibition against future discharges.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Calvin and Annette VanDerVeen*, DOJ Ref. #90-5-1-1-06963.

The proposed Consent Decree may be examined at the office of the United States Attorney, 1000 SW. 3rd Avenue, Suite 600, U.S. Courthouse, Portland, Oregon 97204; the Region 10 office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101. A copy of the consent decree can be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy refer to the referenced case and enclose a check in the amount of \$3.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 01-30153 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 251-2001]

Privacy Act of 1974; Notice of the Removal of a System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Intelligence Policy and Review (OIPR), Department of Justice is removing a published Privacy Act system of records entitled "Domestic Security/Terrorism Investigations Records System (JUSTICE/OIPR-004)." This system notice was last published in the **Federal Register** on January 26, 1984 (49 CFR 3285).

JUSTICE/OIPR-004 is being removed because the records are not (nor have they ever been) retrieved by individual names or other personal identifiers. The records were filed and retrieved by entity/organization. Accordingly, there is no statutory requirement to publish a system notice, and the Domestic Security/Terrorism Investigations Records System notice is removed from the Department's compilation of Privacy Act systems. The Domestic Security/Terrorism Investigation function was transferred from OIPR to the Criminal

Division in 1995. The OIPR's remaining records have been sent to the National Archives and Records Administration.

Dated: November 13, 2001.

Janis A. Sposato,

Acting Assistant Attorney General for Administration.

[FR Doc. 01-30158 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-AW-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States et al. v. Waste Management, Inc. et al.; Joint Motion To Modify Final Judgment

Notice is hereby given that a Joint Motion to Modify the Final Judgment was filed with the United States District Court for the Eastern District of New York in *United States et al. v. Waste Management, Inc. et al.*, Civil No. 98 CV 7168 on October 23, 2001. The Complaint alleged that Waste Management's proposed acquisition Eastern Environmental Services, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in waste collection and/or disposal in nine markets around the country. The Final Judgment in the case required, among other things, that Waste Management divest Eastern's Kelly Run landfill located in Elizabeth, Pennsylvania.

A Competitive Impact Statement filed by the United States describes the Complaint, the Final Judgment, the industry, and remedies to be implemented by Waste Management. The Joint Motion to Modify the Final Judgment seeks an Order from the Court that Waste Management shall have no obligation under the Final Judgment to divest the Kelly Run landfill. Copies of the Complaint, Hold Separate Stipulation and Order, Final Judgment, Competitive Impact Statement, and the Joint Motion to Modify the Final Judgment are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington, DC, and at the office of the Clerk of the United States District Court for the Eastern District of New York, Brooklyn, New York. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within the statutory 60-day comment period. Such comments and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division,

United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530 (telephone: 202-307-0924).

Constance K. Robinson,

Director of Operations, and Merger Enforcement.

[FR Doc. 01-30159 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on October 5, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Frame Relay Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3Com Corporation, San Jose, CA; Avantel S.A., Cuajimalpa, Distrito Federal, Mexico; BRECIIS Communications, San Jose, CA; Cabletron Systems, Rochester, NH; Caspian Systems, San Jose, CA; C-Dot, New Delhi, India; Comnet Iletism Hizmetleri, Istanbul, Turkey; Crosskeys Systems Corporation, Kanata, Ontario, Canada; CS Telecom, Fontenay aux Roses, France; Develcon Electronics, Toronto, Ontario, Canada; EICON Technology, Montreal, Quebec, Canada; ENERGIS Communications, Ltd., London, United Kingdom; Ennovate Networks, Boxboro, MA; Expand Networks, Langhorne, PA; Fujitsu Nexion, Acton, MA; GN Nettest, Markham, Ontario, Canada; Hypercom, Inc., Phoenix, AZ; IIR Limited, London, United Kingdom; InComA, Ltd., Moscow, Russia; Infinitec Communications, Tulsa, OK; Institut ERIS, Massy, France; Intertek Testing Services, Lexington, KY; JTEC PTY Ltd., Meadowbank, NSW, Australia; Krawutschke Consulting and Management, Durmersheim, Germany; Motorola, Mississauga, Ontario, CANADA; NetPlane, Dedham, MA; NetScout, Westford, MA; Next Level Communications, Rohnert Park, CA; Northgate-Cyberzone, Manila, Philippines; Norweb Telecon, Manchester, United Kingdom; Omnicor, Fort Lauderdale, FL; Science Dynamics

Corporation, Cherry Hill, NJ; Siemens AG, Munich, Germany; Sitara Networks, Waltham, MA; Spider Software Limited, Edinburgh, United Kingdom; Sync Research, Irvine, CA; Trillium Digital Systems, Inc., Los Angeles, CA; TTC, Germantown, MD; University of Hawaii, Honolulu, HI; and Verizon Communications, Boston, MA have been dropped as parties to this venture. The following members have been involved in acquisitions: Clarent Corporation, Redwood City, CA acquired ACT Networks, Brossard, Quebec, Canada; Global One, Paris, France acquire France Telecom, Issy des Meaux, France; Equant, Reston, VA acquired Global One, Reston, VA; and Qwest Communications International, Denver, CO acquired US West, Denver, CO. The following members have changed their names: Fluke Corporation, Everett, WA to Fluke Networks, Inc., Everett, WA; and H3 Comm. Consultancy, Felixstowe, United Kingdom to Accent-on-Networks, Felixstowe, United Kingdom.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Frame Relay Forum intends to file additional written notification disclosing all changes in membership.

On April 10, 1992, The Frame Relay Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on April 27, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 9, 2000 (65 FR 48736).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01-30160 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on October 11, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), IMS Global Learning Consortium, Inc. has filed written notifications

simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced Distributed Learning Co-Laboratories, Alexandria, VA; British Educational Communications and Technology Agency (Becta), Coventry, England, United Kingdom; Can Studios Ltd., Sheffield, England, United Kingdom; Docent, Inc., Mountain View, CA; Epic Group Plc, Brighton, England, United Kingdom; Learning Objects Networks, Inc., Waitsfield, VT; University of Wisconsin System, Madison, WI; NYUOnline, Inc., New York, NY; and Scottish Ufl Ltd., Glasgow, Scotland, United Kingdom have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on July 18, 2001. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 15, 2001 (66 FR 42877).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01-30164 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—New Productivity Initiative, Inc.

Notice is hereby given that, on October 4, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), New Productivity Initiative, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing

(1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Platform Computing, Inc., Markham, Ontario, CANADA; and Hewlett-Packard, Palo Alto, CA. The nature and objectives of the venture are (a) to promote the development and adoption of open, accessible specifications and standards relating to Distributed Resource Management (DRM) tools ("Specifications"); (b) to promote such specifications and solutions worldwide to ensure the ability for application developers to create soft- and hard-real-time applications for such technologies; to provide for testing and conformity assessment of implementations in order to ensure compliance with Specifications; (c) to create and own distinctive trademarks; (d) to operate a branding program based upon distinctive trademarks to create high customer awareness of, demand for, and confidence in products designed in compliance with Specifications; and (e) to undertake such other activities as may from time to time be appropriate to further the purposes and achieve the goals set forth above.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01-30161 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum ("PERF")

Notice is hereby given that, on November 5, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Petrobras/Cenpes, Rio de Janeiro, BRAZIL has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum Environmental Research Forum ("PERF") intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, Petroleum Environmental Research Forum ("PERF") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on March 20, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 23, 2001 (66 FR 28547).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01-30162 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby given that, on October 12, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), VSI Alliance has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cogency Semiconductor, Toronto, Ontario, Canada; Elixent Limited, Bristol, Avon, England, United Kingdom; FZI—Forschungszentrum Informatik an der Universitat, Karlsruhe, Germany; HGS Engineering, Inc., Sunnyvale, CA; Sammy Makar (individual member), Fremont, CA; Monterey Design Systems, Sunnyvale, CA; Semifore Technologies, Irvine, CA; SIPAC, Tojeon, Republic of Korea; and Vector 12 Corporation, Richmond, British Columbia, Canada have been added as parties to this venture. Also, Aristo Technology, Cupertino, CA; Element 14, Inc., Cambridge, England, United Kingdom; EnThink, Inc., Santa Clara, CA; Fincitec Oy, Oulu, Finland; Schlumberger Technologies, Inc., San

Jose, CA; Simutech, San Jose, CA; and Universite Pierre et Marie Curie (UPMC), Paris, France have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and VSI Alliance intends to file additional written notification disclosing all changes in membership.

On November 29, 1996, VSI Alliance filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 1997 (62 FR 9812).

The last notification was filed with the Department on July 5, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 30, 2001 (66 FR 39337).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01-30165 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on October 16, 2001, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CSR Rinker Materials, West Palm Beach, FL has changed its name to Rinker Materials Corporation; Blue Circle Canada, Detroit, MI has changed its name to St. Marys Cement (U.S.); Blue Circle Canada, Toronto, Ontario, Canada has changed its name to St. Marys Cement (Canada); Lafarge Corporation, Herndon, VA has changed its name to Lafarge North America Inc.; and Rio Grande Portland Cement, Albuquerque, NM has changed its name to GCC Rio Grande. Also, Blue Circle, Marietta, GA is no longer a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on July 25, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 25, 2001 (66 FR 49044).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01-30163 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Zyvex Corporation—Advanced Technology Program, National Institute of Standards and Technology ("Zyvex Corporation")

Notice is hereby given that, on October 15, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Zyvex Corporation—Advanced Technology Program, National Institute of Standards and Technology ("Zyvex Corporation") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Zyvex Corporation, Richardson, TX; and Standard MEMS, Inc., Burlington, MA. The nature and objectives of the venture are to develop and demonstrate low-cost, computer controlled, microscale components, with extension of this technology to

nanoscale assemblers for the commercialization of nanotechnology.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01-30166 Filed 12-4-01; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Parole Commission

Public Announcement; Sunshine Act Meeting; Pursuant to The Government in the Sunshine Act (Public Law 94-409) (5 U.S.C. Section 552b)

AGENCY HOLDING MEETING: Parole Commission, Department of Justice.

DATE AND TIME: 10:30 a.m., Thursday, December 6, 2001.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commission involving approximately two cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of the Federal prisons have applied for parole and are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492-5962.

Dated: November 30, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01-30236 Filed 12-3-01; 10:57 am]

BILLING CODE 4410-31-M

DEPARTMENT OF JUSTICE

Parole Commission

Public Announcement; Sunshine Act Meeting; Pursuant to The Government in the Sunshine Act (Pub. L. 94-409) (5 U.S.C. Section 552b).

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 9:30 a.m., Thursday, December 6, 2001.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on

the agenda for the open Parole Commission meeting:

1. Approval of minutes of Previous Commission Meeting.

2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.

3. Approval of policy to apply 28 CFR § 2.100 to combine initial hearings for DC prisoners with dispositional revocation hearings.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492-5962.

Dated: November 30, 2001.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 01-30242 Filed 12-3-01; 11:12 am]

BILLING CODE 4410-31-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-38,593 and NAFTA-04454]

Innovative Home Products, Inc. Birmingham, Michigan; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Innovative Home Products, Inc., Birmingham, Michigan. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-38,593 and NAFTA-04454; Innovative Home Products, Inc., Birmingham, Michigan, (November 27, 2001)

Signed at Washington, DC this 27th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30070 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the

Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of November, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-39,242; *Osram Sylvania Products, Inc., Glass Technologies Div., Wellsboro, PA*

TA-W-39,609; *Valeo Engine Cooling, Inc., Jamestown, NY*

TA-W-39,711; *L & N Metallurgical Products Co., Ellwood City, PA*

TA-W-39,762; *Edinboro Molding, Inc., Edinboro, PA*

TA-W-40,179; *Ruppe Hosiery, Inc., Kings Mountain, NC*

TA-W-40,113; *Kings Mountain Hosiery Mill, Inc., Kings Mountain, NC*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-40,055; *GFC Fabricating, LLC, Berwick, PA*

TA-W-39,273; *United States Steel LLC, Fairless Hills, PA*

All workers of United States Steel LLC, Fairless Hills, PA engaged in employment related to the production of tin mill products are denied.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company

name and location of each determination references the impact date for all workers of such determination.

TA-W-39,071; *H.H. Fessler Knitting Co., Crown-Globe Div., Shoemakersville, PA: April 6, 2000.*

TA-W-39,633; *Gamco Manufacturing Co., Inc., Jamestown, TN: June 29, 2000.*

TA-W-39,902; *Suncook Trim Corp., Allentown, NH: August 16, 2000.*

TA-W-40,203; *Hamrick's, Inc., St. Matthews Plant, St. Matthews, SC: September 27, 2000.*

TA-W-40,231; *Weiser Lock, Tucson, AZ: December 29, 2001.*

TA-W-40,189; *Philadelphia Glass Bending Co., Philadelphia, PA: September 10, 2001*

TA-W-39,788; *Lancer Partnership, Ltd., Screw Machine Department, San Antonio, TX: July 31, 2000.*

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of November, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA-TAA-05183; Cognis Corp., Lock Haven, PA

NAFTA-TAA-05448; Kings Mountain Hosiery Mills, Inc., Kings Mountain, NC

NAFTA-TAA-05102; General Mills, Carlisle, PA

NAFTA-TAA-05316; GFC Fabricating, LLC, Berwick, PA

NAFTA-TAA-05202; General Cable Corp., Montoursville, PA

NAFTA-TAA-05229; Edinboro Molding, Inc., Edinboro, PA

NAFTA-TAA-05161; Greenbrier Leasing Corp., Gunderson, Inc., Lake Oswego, OR

NAFTA-TAA-05106; L.E. Smith Glass Co., Mount Pleasant, PA

NAFTA-TAA-04684; Crane Pumps and Systems, Piqua, OH

NAFTA-TAA-05158; Valeo Engine Cooling, Inc., Jamestown, NY

NAFTA-TAA-04750; H.H. Fessler Knitting Co., Crown-Globe Div., Shoemakersville, PA

Affirmative Determinations NAFTA-TAA

NAFTA-TAA-05296; Parker Hannifin Corp., Integrated Hydraulics Div., Lincolnshire, IL: August 17, 2000.

NAFTA-TAA-04840; Osram Sylvia Products, Inc., Glass Technologies Div., Wellsboro, PA: May 1, 2000.

NAFTA-TAA-05057; Gamco Manufacturing Co., Inc., Jamestown, TN: July 9, 2000.

NAFTA-TAA-05447; VF Imagewear (West), Inc., Mathiston, MS: October 16, 2000.

NAFTA-TAA-04636; Freightliner LLC, Truck Manufacturing Plant, Portland, OR: March 9, 2000.

NAFTA-TAA-05383; Hamrick's, Inc., St. Matthews Plant, St. Matthews, SC: September 27, 2000.

NAFTA-TAA-05329; Emerson Process Management, Regulator Div., McKinney, TX: September 11, 2000.

NAFTA-TAA-05442; Weiser Lock, Tucson, AZ: December 29, 2001.

I hereby certify that the aforementioned determinations were issued during the month of November, 2001. Copies of these determinations are available for inspection in Room C-5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours

or will be mailed to persons who write to the above address.

Dated: November 26, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30055 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-39,029]

Atofina Chemicals, Inc. Including Contract Workers of Washore Mechanical and Blessing Electric, Portland, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 19, 2001, applicable to workers of Atofina Chemicals, Inc., Portland, Oregon. The notice was published in the **Federal Register** on July 5, 2001 (66 FR 35463).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that employees of Washore Mechanical and Blessing Electric were employed by Atofina Chemicals, Inc. to repair chlorine and chlorate cells, perform pipe maintenance and installation duties and maintain and install high voltage electric systems necessary to produce chloralkali chemicals at the Portland, Oregon location of the subject firm.

Worker separations occurred at Washore Mechanical and Blessing Electric as a result of worker separations at Atofina Chemicals, Inc., Portland, Oregon.

Based on these findings, the Department is amending the certification to include workers of Washore Mechanical and Blessing Electric employed at Atofina Chemicals, Inc., Portland, Oregon.

The intent of the Department's certification is to include all workers of Atofina Chemicals, Inc., Portland, Oregon who were adversely affected by increased imports.

The amended notice applicable to TA-W-39-029 is hereby issued as follows:

All workers of Atofina Chemicals, Inc., Portland, Oregon and all workers of Washore

Mechanical and Blessing Electric, Portland, Oregon engaged in activities related to the production of chloralkali chemicals at Atofina Chemicals, Inc., Portland, Oregon, who became totally or partially separated from employment on or after April 4, 2000, through June 19, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30061 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-38,900]

Borg Warner Air/Fluid Systems Corporation, Water Quality Valley, MS; Notice of Negative Determination on Reconsideration

On October 29, 2001, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The Department initially denied TAA to workers of Borg Warner Air/Fluid Systems Corporation, Water Valley, Mississippi based on criterion (2) of the group eligibility requirements of section 222 of the Trade Act of 1974, as amended, not being met. The workers at the subject firm were engaged in employment related to the production of transmission control solenoids, transmission control modules, throttle bodies, and air suspension control solenoids.

The petitioner indicated that the Department of Labor reviewed the wrong sales and production period. The petitioner also indicated that the layoffs pertaining to the original investigation were the direct result of anticipated reduced orders from the subject firm's major customer. The petitioner further indicated that increased imports of automobiles reduced the demand for the customers' products and in turn the customer reduced their purchases from the subject plant.

The Department, upon the request of the petitioner, acquired additional subject plant sales and production data for an additional portion of the relevant period. That data were not available during the initial investigation. The additional data obtained from the

company depict increases in plant sales and production.

The petitioner's statement regarding reduced orders by their major customer is not relevant unless declines in sales and production occur during the period of the investigation. Since plant sales and production increased during the scope of the initial investigation, criterion 2 of the group eligibility requirement was not met. If these conditions changed since the initial decision, the petitioners are encouraged to reapply for TAA group eligibility.

The petitioner's statements that increased import competition of automobiles may have impacted the customer of the subject firm is not a relevant factor to the petition that was filed on behalf of workers producing components for automobiles at the subject plant. The products imported must be like and directly competitive with those products produced at the subject firm to meet the "contributed importantly" criterion.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Borg Warner Air/Fluid Systems Corporation, Water Valley, Mississippi.

Signed at Washington, DC this 13th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30065 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,326]

Chiquola Fabrics, LLC, Kingsport, Tennessee; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 29, 2001 in response to a petition filed by a company official on the same date on behalf of workers at Chiquola Fabrics, LLC, Kingsport, Tennessee. Chiquola Fabrics, LLC purchased JPS Converter and Industrial Corporation, Borden Plant, Kingsport, Tennessee, whose workers were certified eligible to apply for Trade Adjustment Assistance (TA-W36,891). That certification has been amended to encompass workers at the same facility

employed by Chiquola Fabrics, LLC, Kingsport, Tennessee.

The petitioner in this case has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of November, 2001.

Edward A. Tomchick,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01-30071 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,068]

Elizabeth Webbing, Inc., Central Falls, Rhode Island; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of August 1, 2001, the workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, petition TA-W-39,068. The denial notice was signed on June 25, 2001 and published in the **Federal Register** on July 11, 2001 (66 FR 36329).

The Department has reviewed the request for reconsideration and has determined that further survey of major declining customers of the subject firm would be appropriate.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 13th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30058 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,666]

International Wire Insulated, Elkmont Extrusion, Elkmont, Alabama; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 23, 2001 in response to a petition filed by a company official on behalf of workers at International Wire Insulated, Elkmont Extrusion, Elkmont, Alabama.

This case is being terminated upon the petitioner's request to withdraw the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 27th day of November 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01-30072 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,560]

ISB Fashion, Inc., New York, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 29, 2001, applicable to workers of ISB Fashion, Inc., New York, New York. The notice was published in the **Federal Register** on September 11, 2001 (66 FR 47241).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of women's dresses. Findings show that the Department incorrectly set the worker certification impact date at June 21, 2001. The impact date should be June 21, 2000, one year prior to the date of the petition.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA-W-39,560 is hereby issued as follows:

All workers of ISB Fashion, Inc., New York, New York who became totally or partially separated from employment on or after June 21, 2000, through August 29, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30060 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-40,056]

Joint Venture Tool and Mold, LLC Saegertown, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 17, 2001, in response to a company petition which was filed by the company on behalf of workers at Joint Venture Tool and Mold, Inc., Saegertown, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 26th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01-30073 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-36,891]

JPS Converter and Industrial Corp., a Subsidiary of JPS Textile, Inc., Borden Plant, Now Known as Chiquola Fabrics, LLC, Kingsport, Tennessee; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 28, 1999, applicable to workers of JPS Converter and Industrial Corp., a Subsidiary of JPS Textile Group, Inc., Borden Plant, Kingsport, Tennessee.

The notice was published in the **Federal Register** on December 2, 1999 (64 FR 67594).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of cotton and some cotton/polyester blend fabrics, primarily for book bindings.

The company reports that in August, 1999, Chiquola Fabrics, LLC purchased the Borden Plant, Kingsport, Tennessee of JPS Converter and Industrial Corp. and is now known as Chiquola Fabrics, LLC.

Information also shows that workers separated from employment at the subject firm, had their wages reported under a separate unemployment insurance (UI) tax account for Chiquola Fabrics, LLC.

Accordingly, the Department is amending the certification determination to properly reflect this matter.

The intent of the Department's certification is to include all workers of JPS Converter and Industrial Corp., a Subsidiary of JPS Textile Group, Inc., Borden Plant, now known as Chiquola Fabrics, LLC who were adversely affected by increased imports.

The amended notice applicable to TA-W-36,891 is hereby issued as follows:

All workers of JPS Converter and Industrial Corp., a Subsidiary of JPS Textile Group, Inc., Borden Plant, now known as Chiquola Fabrics, LLC, Kingsport, Tennessee who become totally or partially separated from employment on or after September 22, 1998, through October 28, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 26th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30069 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,450]

Northwestern Steel and Wire Company Sterling, Illinois; Notice of Revised Determination on Reconsideration

On September 26, 2001, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the

subject firm. The notice was published in the **Federal Register** on November 9, 2001 (66 FR 56713).

The Department initially denied TAA to workers of Northwestern Steel and Wire Company, Sterling, Illinois, producing structural steel and steel rod because the "contributes importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department conducted further survey analysis of major customers of Northwestern Steel and Wire Company, Sterling, Illinois. The survey revealed that various customers increased their reliance on imported structural steel and wire rod during the relevant period.

All workers at Northwestern Steel were previously certified eligible to apply for TAA, TA-W-35, 174, which expired December 1, 2000.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with structural steel and wire rod, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Northwestern Steel and Wire Company, Sterling, Illinois. In accordance with the provisions of the Act, I make the following certification:

All workers of Northwestern Steel and Wire Company, Sterling, Illinois, who became totally or partially separated from employment on or after December 2, 2000, through two years from date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 26th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30068 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,424]

Outboard Marine Corp. (OMC), The Ralph Evinrude Test Center, Stuart, Florida; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 18, 2001 in response to a worker petition which was filed on behalf of workers at Outboard Marine

Corp. (OMC), The Ralph Evinrude Test Center, Stuart, Florida.

An active certification covering the petitioning group of workers is already in effect (TA-W-38,565, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 16th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01-30057 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-38,565 and TA-W-38,565A]

Outboard Marine Corp. (OMC), Waukegan, Illinois, Outboard Marine Corp. (OMC), The Ralph Evinrude Test Center, Stuart, Florida; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 30, 2001, applicable to workers of Outboard Marine Corp. (OMC), Waukegan, Illinois. The notice was published in the **Federal Register** on May 18, 2001 (66 FR 27690).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of marine products, primarily outboard motors and parts.

New information shows that worker separations occurred at The Ralph Evinrude Test Center, Stuart, Florida facility of Outboard Marine Corp. (OMC). Workers of Stuart, Florida provided research, development and quality control support services to Outboard Marine Corp.'s production facilities, including Waukegan, Illinois.

Accordingly, the Department is amending the certification to include the workers of The Ralph Evinrude Test Center, Stuart, Florida facility of Outboard Marine Corp. (OMC).

The intent of the Department's certification is to include all workers of Outboard Marine Corp. (OMC), Waukegan, Illinois who were adversely affected by increased imports.

The amended notice applicable to TA-W-38,565 is hereby issued as follows:

All workers of Outboard Marine Corp. (OMC), Waukegan, Illinois (TA-W-38,565) and outboard Marine Corp. (OMC), The Ralph Evinrude Test Center, Stuart Florida (TA-W-38,565A), who became totally or partially separated from employment on or after January 5, 2000, through April 30, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 16th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01-30059 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-39,416 and TA-W-39,416C]

Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina, and Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia; Notice of Revised Determination on Reconsideration

By letter of October 8, 2001, the company requested administrative reconsideration of the Department's denial of eligibility to apply for trade adjustment assistance applicable to workers and former workers of Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA-W-39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA-W-39, 416C).

The initial investigations resulted in negative determinations issued on August 14, 2001, and published in the **Federal Register** on August 23, 2001 (66 FR 44379). The investigation findings for Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA-W-39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA-W-39, 416C) showed that increased imports did not contribute importantly to worker separations at the respective plants.

The company in their request for reconsideration provided additional documentation pertaining to the product produced at Fieldcrest Cannon—Plant 4. The new data supplied by the company indicated that the company increased their reliance on imported sheeting fabric during the relevant period, contributing to the layoffs at the subject plant.

The company also provided clarification concerning the yarn

produced at the Fieldcrest Cannon—Eagle and Phenix plant. The initial decision was based on the subject plant producing yarn. The new information provided by the company shows that the yarn produced at the subject facility was further processed into terry bath towels, hand towels and washcloths at the subject plant and then sold to outside sources. A sister facility (Pillowtex Corporation, Fieldcrest Cannon—Plant 1, Kannapolis, North Carolina (TA-W-39, 416B) producing the same products (terry bath towels, hand towels and washcloths) was certified on August 14, 2001. The certification was based on aggregate U.S. imports of terry cloth towels and washcloths increasing significantly during the relevant period, combined with the import to shipment ratio exceeding 170 percent.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with sheeting fabric and terry cloth towels and washcloths, respectively contributed importantly to the declines in sales or production and to the total or partial separation of workers of Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA-W-39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA-W-39, 416C). In accordance with the provisions of the Act, I make the following certification:

All workers of Pillowtex Corporation, Fieldcrest Cannon—Plant 4, Kannapolis, North Carolina (TA-W-39, 416) and Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia (TA-W-39, 416C), who became totally or partially separated from employment on or after August 14, 2000, through two years from the date of this certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 13th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30067 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-38,694]

Thrall Car, Thrall Car North American Rail, Chicago Heights, Illinois; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Thrall Car, Thrall Car North American Rail, Chicago Heights, Illinois. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-38,694; Thrall Car, Thrall Car North American Rail, Chicago Heights, Illinois (November 13, 2001)

Signed at Washington, DC this 26th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30056 Filed 12-04-01; 8:45 am]

BILLING CODE 4510-30-M

plant began importing pneumatic controls shortly before the investigation was instituted and continued to increase their imports of pneumatic controls to compensate for the pneumatic controls once produced at the subject plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Tridelta Industries, Inc., Mentor, Ohio, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Tridelta Industries, Inc., Mentor, Ohio, who became totally or partially separated from employment on or after May 18, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 5th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30066 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

cushions for airbags at the Ogden Utah location of the subject firm.

Workers separations occurred at Adecco as a result of worker separations at Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah.

Based on these findings, the Department is amending the certification to include workers of Adecco employed at Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah.

The intent of the Department's certification is to include all workers of Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah adversely affected by a shift in production of airbag cushions to Mexico.

The amended notice applicable to NAFTA—4275 is hereby issued as follows:

All workers of Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah including leased workers of Adecco, Ogden, Utah engaged in the production of cushions for airbags at Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah, who became totally or partially separated from employment on or after November 6, 1999, through March 8, 2003, are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01-30063 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-39, 383]

Tridelta Industries, Inc. Mentor, Ohio; Notice of Revised Determination on Reconsideration

By letter of July 19, 2001, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on June 8, 2001, based on the finding that imports of pneumatic controls did not contribute importantly to worker separations at the Mentor plant. The denial notice was published in the **Federal Register** on June 27, 2001 (66 FR 34254).

To support the request for reconsideration, the company official provide additional information, which was not provided during the initial investigation. The official indicated that the company that acquired the subject

DEPARTMENT OF LABOR**Employment and Training Administration**

[NAFTA-04275]

Autoliv, ASP, Inc. Cushion Manufacturing Facility Including Leased Workers of Adecco, Ogden, Utah; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance on March 8, 2001, applicable to workers of Autoliv, ASP, Inc., Cushion Manufacturing Facility, Ogden, Utah. The Notice was published in the **Federal Register** on April 5, 2001 (66 FR 18119).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that leased employees of Adecco were employed at Autoliv, ASP, Inc., Cushion Manufacturing Facility to produce

DEPARTMENT OF LABOR**Employment and Training Administration**

[NAFTA-4550]

Freightliner LLC, Mt. Holly Manufacturing, Mt. Holly, North Carolina; Notice of Revised Determination on Reconsideration

By application of May 31, 2001, the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), UAW Region 8 and Local Union 5285, requested administrative reconsideration of the Departments denial Regarding Eligibility to Apply for North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA-TAA), applicable to workers and former workers of the subject firm. The denial notice was issued on April 13, 2001 and published in the **Federal Register** on May 2, 2001 (66 FR 22007).

The workers produced medium and heavy duty trucks. The workers were denied NAFTA-TAA on the basis that there was no shift in production (except for a temporary shift) to Mexico or Canada, nor did imports from Canada or Mexico contribute importantly to workers' separations.

The union provided additional information indicating that a shift in plant production occurred during the relevant period. Information provided by the company verified that there was a shift in business class truck production (cargo and cab-in-white for extended and crew cab) to Mexico during the relevant period. The shift in production to Mexico was the primary factor contributing to the layoffs at the subject plant. The workers were separately identifiable.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that there was a shift in production from the workers' firm to Mexico of articles like or directly competitive with those produced by the subject firm. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of Freightliner LLC, Mt. Holly Truck Manufacturing Plant, Mt. Holly, North Carolina, engaged in activities related to the production of business class trucks (cargo and cab-in-white for extended and crew cab), who became totally or partially separated from employment on or after October 10, 1999, through two years from the date of certification, are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30062 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-4523]

York International Corporation Portland, Oregon; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 26, 2001, the Sheet Metal Workers' International Association, Local Union No. 16, requested administrative reconsideration of the Department's negative determination regarding

eligibility to apply for North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA-TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on June 7, 2001, and was published in the **Federal Register** on June 27, 2001 (66 FR 34257).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or the law justified reconsideration of the decision.

The denial of NAFTA-TAA for workers engaged in activities related to the production of custom air handling systems at York International Corporation, Portland, Oregon, was based on the finding that criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act, as amended, were not met. There were no company imports of custom air handling systems from Mexico or Canada, nor did York International Corporation shift production from Portland, Oregon to Mexico or Canada. Major customers did not reduce their purchases from the subject firm.

The petitioner alleges that competitors of the subject plant import products like and directly with what the subject plant produced from Canada and Mexico. The Department normally analyzes the impact of imports on the subject firm workers through a survey of declining customers to examine if the firm's domestic customers switched purchases from the subject firm in favor of foreign produced products during the relevant period. There were no subject firm customers' sales declines during the relevant period. Therefore, any imports from Canada or Mexico are not a major contributing factor to the worker separations at the subject plant.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 6th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-30064 Filed 12-4-01; 8:45 am]

BILLING CODE 4510-30-M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 2001-7A]

Disruption or Suspension of Postal or Other Transportation or Communications Services

AGENCY: Copyright Office, Library of Congress.

ACTION: Determination of general disruption of postal services.

SUMMARY: Pursuant to newly promulgated 37 CFR 201.8, the Register of Copyrights announces her determination that there has been a general disruption or suspension of postal services that has delayed the receipt by the Copyright Office of deposits, applications, fees, and other materials submitted to the Office by means of the United States Postal Service.

DATES: The disruption of postal services commenced on October 18, 2001 and continues to the present.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Patricia Sinn, Senior Attorney, Office of the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024-0400. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: On December 4, 2001, the Copyright Office published in the **Federal Register** an interim regulation, to be codified at 37 CFR 201.8, addressing general disruptions or suspensions of postal or other transportation or communications services. The regulation implements 17 U.S.C. 709 and governs the circumstances under which the Register may assign, as the date of receipt for deposits, applications, fees and other materials submitted to the Office, the date on which the materials would have been received but for a general disruption or suspension of postal or other transportation or communications services.

The Register now publishes her determination that commencing on October 18, 2001, there has been a general disruption of postal services that has affected the delivery of deposits,

applications, fees and other materials submitted to the Office. Persons who believe that they have been adversely affected by the disruption of postal services should comply with the provisions of 37 CFR 201.8.

When the disruption of postal services has ended, the Register shall publish a determination to that effect.

In the meantime, persons desiring to ensure prompt receipt of materials by the Copyright Office are encouraged to use alternative means such as delivery by private carriers or personal delivery rather than the United States Postal Service.

Dated: December 3, 2001.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 01-30290 Filed 12-4-01; 8:45 am]

BILLING CODE 1410-30-P

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, December 13, 2001, and Friday, December 14, 2001, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 10 a.m. on December 13, and at 9 a.m. on December 14.

Topics for discussion include: Quality improvement for health plans and providers; pass-through payments under the prospective payment system for hospital outpatient department services; Medicare+Choice; measuring changes in input prices in traditional Medicare; adjusting local differences in resident training costs; paying for services in traditional Medicare; and assessing payment adequacy and updating Medicare payments.

Agendas will be mailed on December 4, 2001. The final agenda will be available on the Commission's web site (www.MedPAC.gov)

ADDRESSES: MedPAC's address is: 1730 K Street, NW., Suite 800, Washington, DC 20006. The telephone number is (202) 653-7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 653-7220.

Murray N. Ross,

Executive Director.

[FR Doc. 01-30040 Filed 12-4-01; 8:45 am]

BILLING CODE 6820-BW-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

Nuclear Management Company, LLC; Correction

The November 14, 2001 (66 FR 57115), **Federal Register** contained a "Notice of Issuance of Amendment to Facility Operating License." On page 57116, the date of September 24, 2001, should have been included in the list of supplemental letters to the application dated November 16, 2000.

Dated at Rockville, Maryland, this 29th day of November, 2001.

Brenda L. Mozafari,

Project Manager, Section 1, Project Directorate III-1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01-30111 Filed 12-4-01; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348 and 50-364]

Southern Nuclear Operating Company, Inc., et al.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Facility Operating License Nos. NPF-2 and NPF-8, issued to Southern Nuclear Operating Company Inc., et al. (the licensee), for operation of the Joseph M. Farley Nuclear Plant, Units 1 and 2, located in Houston County, Alabama.

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the Facility Operating Licenses (FOLs) for Joseph M. Farley Nuclear Plant, Units 1 and 2, and to delete license conditions that have been completed or are otherwise no longer in effect. These activities have now been completed and the license conditions are either obsolete or are no longer needed.

The proposed action is in response to the licensee's application dated December 8, 2000.

The Need for the Proposed Action

When the FOLs, NPF-2 and NPF-8, were issued to the licensee, the NRC staff deemed certain issues essential to safety and/or essential to meeting certain regulatory interests. These issues were imposed as license conditions in the FOLs, with deadlines for their implementation. Since the units were licensed to operate in the late 1970s and early 1980s, most of these license conditions have been fulfilled. For the license conditions that have been fulfilled, the licensee proposed to have them deleted from the FOLs.

The licensee also proposed to make changes to correct administrative errors such as words inadvertently omitted, documents erroneously cited, etc.

The proposed amendments involve administrative changes to the FOLs only. No actual plant equipment, regulatory requirements, operating practices, or analyses are affected by these proposed amendments.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the amendments are granted. No changes will be made to the design and licensing bases, and applicable procedures at the two units at the Joseph M. Farley Nuclear Plant, Units 1 and 2, will remain the same. Other than the administrative changes, no other changes will be made to the FOLs, including the Technical Specifications.

The changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant

nonradiological environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the McGuire Nuclear Station.

Agencies and Persons Contacted

In accordance with its stated policy, on January 10, 2001, the staff consulted with the Alabama State official, Kirk Whately of the Office of Radiation Control, Alabama Department of Public Health, regarding the environmental impact of the proposed amendments. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed amendments will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendments.

For further details with respect to the proposed action, see the licensee's letter dated December 8, 2000. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, <http://www.nrc.gov/NRC/ADAMS/index.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 29th day of November, 2001.

For the Nuclear Regulatory Commission.
Frank Rinaldi,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01-30110 Filed 12-4-01; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45115; File No. SR-CHX-2001-17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Chicago Stock Exchange, Incorporated, Relating to Eligibility of Limit Orders for Trade Through Protection

November 28, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 6, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Article XX, Rule 37(b)(6), which governs execution of limit orders in the specialist's book in the event of a trade through in the primary market. The proposed rule change would require that a limit order be resident in the specialist's book for a time period of 0-15 seconds (as designated by the specialist) before it would be eligible for limit order protection. The text of the proposed rule change is available from the Office of the Secretary, the CHX and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Article XX, Rule 37(b)(6) of its rules, which governs execution of limit orders in the specialist's book in the event of a trade through in the primary market. The proposed rule change would require that a limit order be resident in the specialist's book for a time period of 0-15 seconds (as designated by the specialist) before it would be eligible for limit order protection.

Under current CHX rules, limit orders resting in a specialists' book are afforded trade through protection, which requires execution of the limit orders in the event of a price penetration in the primary market. The limit orders are entitled to price protection in their entirety regardless of their size. The Exchange represents that, at present, an order sender is able to take advantage of the time latency between a primary market execution and the reporting of the execution to the tape to gain these liquidity guarantees. The Exchange believes that an order sender will do so by placing a large limit order in a CHX specialist's book between the time of the primary market execution and the tape print. The limit order will typically be priced at a penny or two superior to the primary market trade price. According to the Exchange, the print of the inferior priced primary market trade will cause an automatic execution of the limit order in its entirety on the CHX at the limit price, thus giving the order sender inexpensive access to large amounts of liquidity.

In the example above, the Exchange explains that the limit order would not be due an execution because it was not "resting" on the specialist's book at the time the trade through occurred in the primary market. Rather, it was resting at the time the trade through execution was reported to the tape. The Exchange believes that this practice exploits a limitation in the trade reporting system that equates "trade time" with "report time." The Exchange believes that this practice has grown more prevalent with

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the transition to a decimal pricing environment because the premium needed to secure the increased liquidity (the minimum price variation) has been reduced to a penny.

The proposed rule change would provide that before a limit order in the specialist's book is automatically executed following a price penetration in the primary market, the limit order must have resided in the specialist's book for a time period of 0–15 seconds (as designed by the specialist).³ This requirement is intended to preclude order-senders from taking advantage of the time latency between a primary market execution and the reporting of the execution to the tape.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).⁴ In particular, the proposed rule is consistent with section 6(b)(5) of the Act⁵ in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose my inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-2001-17 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-30140 Filed 12-4-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45117; File No. SR-CHX-2001-08]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Amending Its Minor Rule Violation Plan

November 29, 2001.

On April 23, 2001, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4

thereunder,² a proposed rule change that would amend CHX Article XII, Rule 9(h), Minor Rule Violations, to include CHX Article XX, Rule 43(d), Trading in Nasdaq/NM Securities/Manual Executions, in the Exchange's Minor Rule Violation Plan ("Plan"). Specifically, a member who fails to manually execute a Nasdaq/NM market or marketable limit order at the national best bid or offer or better at the time of its receipt or at the best price available in another market place may be fined under the Plan. Notice of the proposed rule change was published for comment in the **Federal Register** on October 10, 2001.³ The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act⁶ because it will help prevent fraudulent and manipulative acts and practices, as well as promote just and equitable principles of trade. The Commission finds the proposal is consistent with section 6(b)(6) of the Act,⁷ because the proposal provides a mechanism for the appropriate discipline for violations of certain rules and regulations.

In addition, the Commission finds the proposal is consistent with section 6(b)(7) of the Act⁸ because the proposal provides a fair procedure for the disciplining of members and persons associated with members. Finally, the Commission finds the proposal is consistent with Securities Exchange Act Rule 19d-1(c)(2)⁹ that governs minor rule violation plans.

In approving this proposal, the Commission in no way minimizes the importance of compliance with this rule, and all other rules subject to the imposition of fines under the Plan. The Commission believes that the violation

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 44900 (October 2, 2001), 66 FR 51694.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(6).

⁸ 15 U.S.C. 78f(b)(7).

⁹ 17 CFR 240.19d-1(c)(2).

³ A specialist might choose a lesser time as a competitive inducement to attract order flow.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations, the Plan provides a reasonable means to address rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects that the CHX will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under the Plan, on a case by case basis, or if a violation requires formal disciplinary action.

It is therefore ordered, pursuant to section 19(b)(2) of the Act¹⁰, that the proposed rule change (SR-CHX-2001-08), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-30142 Filed 12-4-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45109; File No. SR-NASD-2001-19]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc., Relating to Reporting Requirements for Clearing Members

November 27, 2001.

On March 21, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change relating to reporting requirements for members that are clearing firms. The proposed rule change was published for comment in the **Federal Register** on May 9, 2001.³ The Commission received five comment

letters on the proposed rule change.⁴ On June 6, 2001, NASD Regulation filed Amendment No. 1 to the proposed rule change.⁵ On November 1, 2001, NASD Regulation filed Amendment No. 2 to the proposed rule change.⁶ This order approves the proposed rule change as amended.

I. Description of the Proposed Rule Change

NASD Regulation is developing a new business model regarding the surveillance and examination of NASD members. The new program's official title is Integrated National Surveillance and Information Technology Enhancements (commonly referred to as "INSITE"). INSITE will allow NASD

⁴ See Letters to Jonathan G. Katz, Secretary, Commission, from D. Stuart Bowers, Senior Vice President, Legg Mason Wood Walker, Inc., John H. Haynie, Managing Director, Wachovia Securities, Inc., Thomas F. Grabowski, Vice President, BNY Clearing Services, LLC, Douglas W. Noll, First Vice President, Stifel, Nicolaus & Company, Incorporated, Michael D. Duffy, Director of Operations, U.S. Bancorp Piper Jaffray, and Ken Cameranesi, Senior Vice President, Wells Fargo Investments, dated May 17, 2001 ("The Firms' Letter"); Harry D. Frisch, Esq., Senior Vice President, iClearing LLC, dated June 7, 2001 ("iClearing Letter"); Gregory P. Vitt, Senior Vice President, A.G. Edwards & Sons, Inc., dated June 28, 2001 ("A.G. Edwards Letter"); and W. Leo McBlain, Chairman and Cindy Foster, Chair, FIF Service Bureau Committee, Financial Information Forum, dated June 28, 2001 ("FIF Letter").

⁵ See Letter from Shirely H. Weiss, Office of General Counsel, NASD Regulation, Inc., to Jonathan G. Katz, Secretary, Commission (June 4, 2001) ("Amendment No. 1"). Amendment No. 1 responds to the Firms' letter by reiterating the commitment of NASD Regulation to work with its member firms to facilitate reporting requirements under proposed Rule 3150. Further, NASD Regulation represented that it conducted and would continue to conduct a series of meetings with the service bureaus and member clearing firms to explain and modify data element requirements. Moreover, NASD Regulation amended the proposed rule text to include both clearing and self-clearing member firms.

⁶ See Letter from Patrice M. Gliniecki, Vice President and Deputy General Counsel, NASD Regulation, Inc., to Jonathan G. Katz, Secretary, Commission (November 1, 2001) ("Amendment No. 2"). Amendment No. 2 responds to comment letters received by the Commission, as well as comment letters received by NASD Regulation from Harris Schwartz, Nordea Securities, Inc., dated June 8, 2001 ("Nordea Letter"); Bonnie K. Wachtel, CEO and Wendie L. Wachtel, COO, Wachtel & Co., Inc., dated June 29, 2001 ("Wachtel Letter"); and Michael Viviano, Chairman, Operations Committee, Christopher R. Franke, Chairman, Self-Regulatory and Supervisory Practices Committee, and Gerard McGraw, Chairman, Clearing Firms Committee, Securities Industry Association, dated July 19, 2001 ("SIA Letter"). In particular, Amendment No. 2 clarifies that only clearing and self-clearing firms that are members (not non-members) will be required to report the prescribed data. Amendment No. 2 provides additional information on the data element requirements, and proposes a phase-in schedule for the implementation of reporting requirements. Last, Amendment No. 2 amends the rule text to include an exemptive provision from the reporting requirements, pursuant to the Rule 9600 Series.

Regulation to concentrate its examinations on the higher-risk segments of the industry; focus the content of each examination on higher-risk topics; streamline the examination process for the examiners and members; better coordinate regulatory findings with other NASD Regulation departments; and provide specialized training to enhance and maintain examiner's competency levels.

According to NASD Regulation, the surveillance component of the INSITE program will produce reports that identify member "exceptions" based on historical and current comparisons of member data. Further, the exceptions will trigger follow-up reviews and possible member examinations. To facilitate the surveillance component of INSITE, NASD Regulation proposed to adopt Rule 3150 to require all members that are clearing firms (both those that are self-clearing and those that clear for other firms) to report certain data (*i.e.*, data elements) to the NASD Regulation Department of Member regulation ("Member Regulation").⁷ Under the NASD's proposal, a clearing firm member may enter into an agreement with a third party pursuant to which the third party agrees to fulfill the clearing firm's obligations under proposed Rule 3150. Notwithstanding the existence of such an agreement, NASD Regulation proposed that each member that is a clearing firm would be responsible for complying with the requirements of the proposed rule change.

The text of proposed Rule 3150 does not specify the data that must be reported to NASD Regulation. Initially, the data elements that NASD Regulation will require its members that are clearing firms to submit to the Association pursuant to proposed Rule 3150 included items such as trade cancellations (T+1 forward) and as-of trades, aggregate net liquidating equity in each firm's correspondents' proprietary accounts, and unsecured customer debits. NASD Regulation represented that it would continue to work its clearing firm members and the SEC staff in identifying the data that is needed in order to operate the surveillance component of INSITE. NASD Regulation would also provide its clearing firm members with advance notice through the NASD Notice to Members process (or similar guidance) of any changes to the required data

⁷ The Association anticipates requesting members that are clearing firms to submit data electronically. Telephone conversation between Shirley W. Weiss, Office of General Counsel, NASD Regulation, and Heidi Pilpel, Special Counsel, and Lisa Jones, Attorney, Division of Market Regulation, Commission (May 2, 2001).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44251 (May 3, 2001), 66 FR 23750 (SR-NASD-2001-19)

elements. Moreover, NASD Regulation would advise its clearing firm members of the format to be used in transmitting information pursuant to proposed Rule 3150, and the methodology by which NASD Regulation will require its clearing firm members to submit the information to the Association.

II. Summary of Comments

The Commission received five comment letters on the proposal.⁸ In addition, NASD Regulation received three comment letters regarding the proposal.⁹ There were several issues raised by commenters.

First, commenters requested that NASD Regulation give further details on the data elements that were to be collected.¹⁰ Further, commenters questioned the usefulness of the required data elements, since the requirements tend to duplicate information already provided by clearing and self-clearing firms through Financial and Operational Combined Uniform Single ("FOCUS") Reports, the NASD's Automated Confirmation Transaction Service ("ACT") and Order Audit Trail System ("OATS").¹¹

In response to the commenters' request for clarification of the required data elements, the NASD Regulation has created an INSITE Web site from which firms may obtain information.¹² Members may review the proposed Firm Data Filing Technical Specifications that will be required under Rule 3150 and a bullet point presentation of the INSITE Exam Program, which describes the INSITE program in detail. The Web site will also feature questions asked by clearing and self-clearing firms and NASD Regulation's answers to their questions. NASD Regulation has also represented that it will continue to report modifications or clarifications of the reporting requirements on the INSITE Web site.¹³

In addition, starting in June 2001, NASD Regulation conducted a series of workshops with clearing and self-clearing firms around the country. According to NASD Regulation, the purpose of these workshops was, among

other things, to explain the data elements that firms would be required to report under proposed Rule 3150, to answer the firms' questions about the reporting process, and to gather additional information about the firms' capability to report required information.¹⁴ NASD Regulation stated that it would continue to modify the reporting requirements as necessary based on the information it has received, and continues to receive, from its member firms and service bureaus.¹⁵ Moreover, as suggested by the SIA,¹⁶ NASD Regulation is currently meeting with a specially formed committee ("SIA Committee") comprised of technology, compliance, operations, and legal professionals to discuss such issues as the data elements, the implementation schedule for firm filings, and reports to member firms. NASD Regulation staff expects to have an on-going relationship with the Committee as a means of obtaining industry input.¹⁷

In response to the commenters' concerns of the duplication of reporting information through FOCUS reports, ACT, and OATS, NASD Regulation has represented that data reported through OATS will not be duplicated, since that data pertains to orders, and the INSITE data would pertain to transaction and account data. Similarly, information reported through ACT does not provide the detail required by the INSITE program regarding cancellations and rebills.¹⁸

In addition, NASD Regulation noted that some of the required data duplicates information required to be reported in FOCUS Reports.¹⁹ According to NASD Regulation, the difference is the frequency with which INSITE information would be reported. INSITE information, which can change very rapidly and which can have a significant impact on a firm's capital, would be reported on a daily basis,²⁰ giving NASD Regulation the opportunity to discover capital problems almost as they occur, whereas FOCUS Reports are filed on a monthly and quarterly basis.²¹ Furthermore, NASD Regulation believes that the data

elements also provide valuable insights into potential sales practice issues as they arise.

Second, commenters were concerned that they would not be able to submit the data elements requested in the suggested format due to technical flaws and inconsistencies.²² In addition, commenters wanted more details and results of the testing completed by the three pilot member firms.²³

In response to the commenters' concerns, NASD Regulation represented that it is in the process of conducting a pilot program with three clearing firms (Bear, Stearns & Co. Inc., Pershing, a division of Donaldson, Lufkin & Jenrette Securities Corporation, and Wexford Clearing Services Incorporated, a division of Prudential Securities Incorporated). These pilot firms are electronically reporting on a daily basis a portion of the firm data elements, and the pilot firms have not reported any significant problems in collecting and reporting this data. According to NASD Regulation, the pilot program has helped NASD Regulation to identify and resolve any technical problems experienced by these firms.²⁴ NASD Regulation expects, as with any new program or technology, that systems failures may arise. When that happens, firms will be expected to report these failures to NASD Regulation, correct them as expeditiously as possible, and restart the reporting process.²⁵ Generally, NASD Regulation represents that a system failure that has happened in the normal course of doing business, and which a firm is attempting to correct, will not be viewed as a disciplinary matter.²⁶

The proposed reporting program has been designed to require firms to provide summaries of information that they already collect, including, among other things, aggregate net liquidating equity, exchange and non-exchange transactions, options transactions, debt transactions, customer accounts, short interest, unsecured customer debits, trade cancellations and as-of trades summaries and detail. NASD Regulation is specifying the file formats. Firms may report this data via NASD Regulation's Form Filing Web site or, for firms with connectivity to the NASD OATS private network, through that file transfer protocol.²⁷ NASD Regulation recognizes that firms may have to make some

⁸ See note 4, *supra*.

⁹ See note 6, *supra*.

¹⁰ See The Firms Letter; iClearing Letter; SIA Letter.

¹¹ See A.G. Edwards Letter; SIA Letter.

¹² Currently, NASD members may review the Firm Data Elements on NASD Regulation's Web site, <http://www.nasdr.com/insite.htm>, at ages 16-18. In the initial implementation of the INSITE program, NASD Regulation represents that no new data elements will be added, and some data elements may be eliminated. NASD Regulation does not anticipate materially expanding the data element requirements.

¹³ See Amendment No. 2, p. 3.

¹⁴ See *id.*

¹⁵ *Id.*

¹⁶ See SIA Letter.

¹⁷ See note 13, *supra*.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ NASD Regulation represents that the INSITE program may, in the future, require firms to report certain data elements less frequently. NASD Regulation will publish any change in the daily reporting requirements well in advance of the date on which that change will occur.

²¹ See note 13, *supra*.

²² See The Firms Letter; iClearing Letter; A. G. Edwards Letter.

²³ See The Firms Letter; iClearing Letter.

²⁴ See Amendment No. 2, p. 4.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

programming changes in order to create the daily summaries required by the INSITE program. The information required to establish these programs is currently being made available on the INSITE Web site, and firms subject to proposed Rule 3150 should have ample time to prepare for their participation in the program.²⁸ Further, members are advised on the INSITE Web site that NASD Business and Technology Support Services is the primary source of information about INSITE, and that it can be used as a source for answers to questions about reporting responsibilities, technical specifications for reporting to the NASD, deadlines, and more.²⁹

Moreover, as suggested by the SIA, NASD Regulation has represented that it is committed to developing a system on its Web site that will permit members to review the information that has been reported by firms, directly or on their behalf by clearing firms or service bureaus. NASD Regulation will work with its member firms to develop a useful format. NASD Regulation expects this system to be fully functional in the latter part of 2002.³⁰

Third, commenters were concerned that the time frame of implementing proposed Rule 3150 would be unrealistic.³¹ In response to the commenters concerns, NASD Regulation has stated that its goal is to implement reporting requirements under proposed Rule 3150 in as reasonable a manner as possible in order to give clearing firms, self-clearing firms, and service bureaus sufficient time to prepare. NASD Regulation plans to begin requiring reporting under proposed Rule 3150 as of December 10, 2001. The three member firms that have been participating in the pilot program will be phased in first. All three firms will be reporting the published Firm Data Elements under proposed Rule 3150 by mid-January 2002.

NASD Regulation represents that it will phase in all other members in several stages. NASD Regulation is currently working with the SIA Committee and FIF to establish these dates. NASD Regulation will publish the schedule of phase-ins as soon as it has been established, but in no event will NASD Regulation give member firms less than six-months notice of their start-up date. NASD Regulation also represents that it will take into account broker-dealers' relationships with

service bureaus in establishing the phase-in schedules. NASD Regulation expects Rule 3150 to be fully implemented by the end of 2002.³²

NASD Regulation also proposed to amend proposed Rule 3150 to eliminate the requirement that all data be reported on a daily basis, in order to give NASD Regulation the flexibility it needs to require that certain data elements be reported less frequently.³³ As with the current data elements, NASD Regulation would announce any change in the reporting requirements well in advance of their implementation.³⁴

Fourth, commenters suggested that the Association include a provision for exemptive relief from the reporting requirements of proposed Rule 3150.³⁵ These commenters suggested that such relief might be based on the nature of a firm's activities, its risk factors, and the size of its capital reserves.³⁶

In response to these commenters, NASD Regulation has decided to include a provision in proposed Rule 3150 that would permit broker-dealers to request an exemption from the reporting requirements of proposed Rule 3150 pursuant to the Rule 9600 Series.³⁷ As stated in proposed Rule 3150(b), exemptions from any or all of the Rule 3150 reporting requirements will be granted only under exceptional and unusual circumstances. According to NASD Regulation, the size of a firm will not be the determinative factor in deciding whether to grant such exemptions, since wholesale exemptions based solely on the size of a firm could jeopardize the strength of the INSITE program.

NASD Regulation also proposed additional clarifications to proposed Rule 3150.³⁸ NASD Regulation proposed to amend the rule language to explicitly refer to both clearing firms and self-clearing firms.³⁹ In addition, NASD Regulation proposed to amend the rule language to clarify that the Association will only require its *member* clearing and self-clearing firms to report prescribed data pertaining to the member and any member broker-

dealer for which it clears.⁴⁰ This should exclude from the parameters of proposed Rule 3150 any broker-dealer that is not registered with the NASD.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁴¹ In particular, the Commission finds the proposal is consistent with section 15A(b)(6) of the Act,⁴² which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the Association's proposal to enhance the surveillance and examination of NASD members via the INSITE program should help to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it authorizes the Association to require clearing and self-clearing members to report certain data to be analyzed for indications of sales practice violations. In addition, the data elements reported pursuant to NASD Rule 3150 and NYSE Rule 416⁴³ will assist regulators in addressing concerns about microcap fraud.⁴⁴

⁴⁰ When a clearing firm files data for its own business, NASD Regulation will treat it as a self-clearing firm for purposes of INSITE reporting requirements. In any event, a clearing firm (or a self-clearing firm) is not required to report its own aggregate net liquidating equity; instead, a clearing firm must report the aggregate net liquidating equity of its correspondent firms. (See page 16 of the INSITE Firm Data Technical Specifications, which states that a self-clearing firm may report its aggregate net liquidating equity as NULL, or no value.)

⁴¹ In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78o-3(b)(9). The Commission finds that Rule 3150 appropriately balances the need of NASD Regulation for regulatory information with the need to provide clearing firms flexibility in reporting such information in a manner that is not unduly burdensome. For example, NASD Regulation has tailored the data elements, committed to provide six-months of notice of implementation, worked closely with the industry on implementation of Rule 3150, and provided alternative methods for reporting, such as service bureaus.

⁴² 15 U.S.C. 78o-3(b)(6).

⁴³ See Securities Exchange Act Release No. 44135 (March 30, 2001), 66 FR 18334 (April 6, 2001) (order approving SR-NYSE-00-60).

⁴⁴ NASD Regulation reiterates its commitment that it is collecting the data pursuant to Rule 3150 solely for regulatory purposes. Telephone conversation between Shirley H. Weiss, Office of General Counsel, NASD Regulation and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission (Nov. 26, 2001).

³² Telephone conversation between Shirley H. Weiss, Office of General Counsel, NASD Regulation and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission (Nov. 27, 2001).

³³ See Amendment No. 2, p. 5.

³⁴ *Id.*

³⁵ See Nordea Letter; Wachtel Letter.

³⁶ *Id.*

³⁷ NASD Regulation is also proposing a rule change to Rule 9610 that will add Rule 3150 to the rules under which members can seek exemptive relief.

³⁸ See Amendment No. 2, p. 6.

³⁹ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ See The Firms Letter; iClearing Letter; FIF Letter.

The Commission finds that the data elements that NASD Regulation initially will require its clearing and self-clearing members to provide pursuant to proposed Rule 3150, including items such as trade cancellations (T+1 forward) and as-of trades, aggregate net liquidating equity in each firm's proprietary accounts, and unsecured customer debits, have been sufficiently identified by NASD Regulation as core data that is needed in order to operate the surveillance component of INSITE.⁴⁵ Further, the Association has represented that in the initial implementation of the INSITE program, no new data elements will be added, and some data elements may be eliminated. Moreover, the Association noted that it does not anticipate materially expanding the data element requirements.

After careful consideration of the commenters' concerns about the intricacies and usefulness of the data elements required pursuant to proposed Rule 3150, the Commission believes that NASD Regulation's INSITE Web site should help to keep NASD members informed of all modifications and clarifications of the reporting requirements. In addition, the Commission finds that NASD Regulation has been and will continue to be committed towards modifying the reporting requirements as necessary based on the information that it receives from member firms and service bureaus, thus promoting just and equitable principles of trade consistent with the Act.

The Commission has also carefully considered the commenters' concerns about the duplication of reporting information through FOCUS reports, ACT and OATS. The Commission finds that although some of the required data duplicates information required to be reported in FOCUS reports, the required data pursuant to proposed Rule 3150 will be reported on a daily basis, at least initially, which would give NASD Regulation the opportunity to discover capital problems almost as they occur. Further, NASD Regulation has represented that INSITE data would pertain to transaction and account data. Therefore, the Commission believes that the data elements should provide valuable insights into potential sales practice issues as they arise, consistent with section 15A(b)(6) of the Act.

The Commission finds that NASD Regulation has sufficiently addressed commenters' concerns about any

possible technical flaws and inconsistencies of the INSITE program. The Commission believes that NASD Regulation's pilot program with three clearing firms should help to identify any significant programs in collecting and reporting this data, and any technical problems experienced by member firms. The Association notes that should a system failure happen in the normal course of doing business, and a firm is attempting to correct it, the Association would not view the violation of Rule 3150 as a disciplinary matter.⁴⁶ Further, NASD Regulation represents that the reporting program is designed to require member firms to provide summaries of information that it already collects. Moreover, NASD Regulation is specifying the file formats and providing information on the INSITE Web site on how to establish the reporting program should some firms need to make some programming changes. Therefore, the Commission believes that the Association will work with its member firms to develop a useful format.

After careful consideration of the commenters' concerns about the ambiguous time frame of implementing reporting requirements pursuant to proposed Rule 3150, the Commission finds that the Association's proposal to begin requiring reporting under proposed Rule 3150 as of December 10, 2001, phase in the three pilot member firms first, and thereafter phase in other member firms in several stages should reasonably help the Association to implement the reporting requirements of proposed Rule 3150 by giving clearing and self-clearing firms, and service bureaus sufficient time to prepare. The Commission believes that the representation by NASD Regulation that it would give member firms no less than six-months notice of their start-up date should provide clearing and self-clearing member firms adequate notice to prepare for the reporting requirements. Further, NASD Regulation has represented that it would take into account broker-dealer relationships with service bureaus in establishing the phase-in schedules.

The Commission also finds that the Association's proposal to include a provision for exemptive relief from the reporting requirements of proposed Rule 3150 should alleviate commenters' concerns that members under certain circumstances should be exempted from the reporting requirements. The

Commission notes, in particular, that the size of a firm will not be the determinative factor in deciding to grant such exemption in order not to jeopardize the strength of the INSITE program.

IV. Amendments No. 1 and No. 2

The Commission finds good cause for approving Amendments No. 1 and 2 prior to the thirtieth day after notice of the publication in the **Federal Register**. In addition to making minor technical changes to the proposed rule language, these amendments (1) explicitly refer to both clearing firms and self-clearing firms, and clarify that only *member* clearing and self-clearing firms are required to report the prescribed data; (2) eliminate the requirement that all data be reported on a daily basis; and (3) provide an exemption process from Rule 3150. Additionally, these amendments address commenters' concerns about duplicative data reporting and the proposed implementation date, and provide the assurance of NASD Regulation that it will work in close coordination with its member firms in implementing the reporting requirements under rule 3150.

Accordingly, the Commission finds that by providing Amendments Nos. 1 and 2 to proposed Rule 3150 the Rule should enable the Association to detect unusual trading patterns at an early stage and thereby better protect investors and the public interest from abusive sales practices. The Commission believes that it is not necessary to separately solicit comment on Amendment Nos. 1 and 2 prior to approving this proposal because it finds that these changes to the proposed rule language respond to and incorporate suggestions made by commenters to the original proposal. The Commission therefore finds that acceleration of Amendments No. 1 and 2 is appropriate.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2, including whether the proposed amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendments that are filed with the Commission, and all written communications relating to the amendments between the Commission and any person, other than those that

⁴⁵ See Firm Data Filing Technical Specifications under Rule 3150, available at pp. 16-18 at www.nasdr.com/insite.htm.

⁴⁶ The Commission notes, however, that a series of systems failures raises issues as to a broker-dealer's fulfillment of its regulatory responsibilities. See Lowell H. Listrom, 50 S.E.C. 883, 887 note 7 (1992).

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 also will be available for inspection and copying at the principal office of the NASD.

All submissions should refer to File No. SR-NASD-2001-19 and should be submitted by December 26, 2001.

VI. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁴⁷ that the proposed rule change (SR-NASD-2001-19), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁴⁸

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-30138 Filed 12-4-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45116; File No. SR-NASD-2001-84]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. To Change the Description of the Market Capitalization Listing Standard to Market Value of Listed Securities

November 28, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 14, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq has filed with the Commission a proposed rule change to change the description of the market

capitalization listing standard to market value of listed securities. Nasdaq is also proposing to provide a definition of the term "listed securities" in Nasdaq's Marketplace Rules. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Rule 4200. Definitions

(a) For purposes of the Rule 4000 Series, unless the context requires otherwise:

(1)-(18) No change

(19) "*Listed securities*" means securities quoted on Nasdaq or listed on a national securities exchange.

Former (19)-(36) renumbered as (20)-(37)

(b) No change

Rule 4310. Qualification Requirements for Domestic and Canadian Securities

To qualify for inclusion in Nasdaq, a security of a domestic or Canadian issuer shall satisfy all applicable requirements contained in paragraphs (a) or (b), and (c) hereof.

(a)-(b) No change

(c) In addition to the requirements contained in paragraph (a) or (b) above, and unless otherwise indicated, a security shall satisfy the following criteria for inclusion in Nasdaq:

(1) No change

(2)(A) For initial inclusion, the issuer shall have:

(i) No change

(ii) *market value of listed securities* [market capitalization] of \$50 million (currently traded issuers must meet this requirement and the bid price requirement under Rule 4310(c)(4) for 90 consecutive trading days prior to applying for listing); or

(iii) No change

(B) For continued inclusion, the issuer shall maintain:

(i) No change

(ii) *market value of listed securities* [market capitalization] of \$35 million; or

(iii) No change

(3) For initial inclusion, the issuer shall have an operating history of at least one year or a *market value of listed securities* [market capitalization] of \$50 million.

(4)-(7) No change

(8)(A) No change

(B) No change

(C) A failure to meet the continued inclusion requirements for *market value of listed securities* [market capitalization] shall be determined to exist only if the deficiency continues for a period of 10 consecutive business days. Upon such failure, the issuers shall be notified promptly and shall have a period of 30 calendar days from

such notification to achieve compliance with the applicable continued inclusion standard. Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 30 day compliance period.

(9)-(29) No change

(d) No change

Rule 4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

To qualify for inclusion in Nasdaq, a security of a non-Canadian foreign issuer, an American Depositary Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b) or (c), and (d) and (e) of this Rule.

(a)-(d) No change

(e) In addition to the requirements contained in paragraphs (a), (b) or (c), and (d), the security shall satisfy the following criteria for inclusion in Nasdaq:

(1) No change

(2)(A) For initial inclusion, the issuer shall have:

(i) No change

(ii) *market value of listed securities* [market capitalization] of U.S. \$50 million (currently traded issuers must meet this requirement for 90 consecutive trading days prior to applying for listing); or

(iii) No change

(B) For continued inclusion, the issuer shall maintain:

(i) No change

(ii) *market value of listed securities* [market capitalization] of U.S. \$35 million; or

(iii) No change

(C) No change

(D) A failure to meet the continued inclusion requirements for *market value of listed securities* [market capitalization] shall be determined to exist only if the deficiency continues for a period of 10 consecutive business days. Upon such failure, the issuer shall be notified promptly and shall have a period of 30 calendar days from such notification to achieve compliance with the applicable continued inclusion standard. Compliance can be achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the 30 day compliance period.

(E) No change

(3)-(25) No change

(f) No change

Rule 4420. Quantitative Designation Criteria

In order to be designated for the Nasdaq National Market, an issuer shall

⁴⁷ 15 U.S.C. 78s(b)(2).

⁴⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

be required to substantially meet the criteria set forth in paragraphs (a), (b), (c), (d), (e), (f), or (g) below. Initial Public Offerings substantially meeting such criteria are eligible for immediate inclusion in the Nasdaq National Market upon prior application and with the written consent of the managing underwriter that immediate inclusion is desired. All other qualifying issues, excepting special situations, are included on the next inclusion date established by Nasdaq.

- (a)–(b) No change
- (c) Entry Standard 3

An issuer designated under this paragraph does not also need to be in compliance with the quantitative criteria for initial inclusion in the Rule 4300 series.

- (1)–(5) No change
- (6) The issuer has:

(A) a *market value of listed securities* [market capitalization] of \$75 million (currently traded issuers must meet this requirement and the bid price requirement under Rule 4420(c)(3) for 90 consecutive trading days prior to applying for listing); or

- (B) No change
- (d)–(f) No change

(g) Nasdaq will consider designating as Nasdaq National Market securities Selected Equity-linked Debt Securities (SEEDS) that generally meet the criteria of this paragraph (g). SEEDS are limited-term, non-convertible debt securities of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock (or sponsored American Depositary Receipts (ADPs) overlying such equity securities).

- (1)–(2) No change

(3) Minimum Standards Applicable to the Linked Security

An equity security on which the value of the SEEDS is based must:

(A)(i) have a *market value of listed securities* [market capitalization] of at least \$3 billion and a trading volume in the United States of at least 2.5 million shares in the one-year period preceding the listing of the SEEDS;

(ii) have a *market value of listed securities* [market capitalization] of at least \$1.5 billion and trading volume in the United States of at least 10 million shares in the one-year period preceding the listing of the SEEDS; or

(iii) have a *market value of listed securities* [market capitalization] of at least \$500 million and a trading volume in the United States of at least 15 million shares in the one-year period preceding the listing of the SEEDS.

- (B)–(C) No change
- (4)–(5) No change

(h) No change

Rule 4450. Quantitative Maintenance Criteria

After designation as a Nasdaq National Market security, a security must substantially meet the criteria set forth in paragraphs (a) or (b), and (c), (d), (e), and (f) below to continue to be designated as a national market system security. A security maintaining its designation under paragraph (b) need not also be in compliance with the quantitative maintenance criteria in the Rule 4300 series.

(a) No change

(b) Maintenance Standard 2—Common stock, Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts and Limited Partnership Interests in Foreign or Domestic Issues

(1) The issuer has:

(A) a *market value of listed securities* [market capitalization] of \$50 million; or

(B) No change

(2)–(6) No change

(c)–(g) No change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the description of the market capitalization listing standard to market value of listed securities. One of the standards under which issuers can qualify for listing on The Nasdaq National Market ("National Market") is to have a market capitalization of at least \$75,000,000. Issuers may also qualify for continued inclusion on the National market with at least \$50,000,000 in market capitalization. The minimum market capitalization standards for initial and continued inclusion on The Nasdaq SmallCap Market are \$50,000,000 and \$35,000,000, respectively.

For purposes of initial listing eligibility, Nasdaq has historically

interpreted the term market capitalization to include only the value of listed securities. In connection with continued listing eligibility, however, Nasdaq has also considered market capitalization to include classes of non-redeemable convertible preferred stock, provided that the conversion price was "in the money." This approach has created uncertainty among issuers and investors as to the definition and application of the market capitalization listing standard. Furthermore, Nasdaq's Marketplace Rules do not define market capitalization and this term may be thought to include more than just the value of listed securities or non-redeemable convertible preferred stock that is in the money. For example, issuers and investors may believe that all unlisted convertible preferred stock or non-convertible preferred stock may be included in the definition of market capitalization.

As such, Nasdaq proposes to change the description of the market capitalization listing standard to market value of listed securities. In conjunction with this change, Nasdaq also proposes to add to Nasdaq's Marketplace Rules a definition of the term "listed securities." Nasdaq believes that these modifications will clarify for issuers and investors that initial and continued listing eligibility will be based only upon the value of an issuer's securities that are quoted on Nasdaq or listed on a national securities exchange.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act³ in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

³ 15 U.S.C. 78o(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2001-84 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-30141 Filed 12-4-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45114; File No. SR-Phlx-2001-38]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change, and Amendment No. 1 Thereto, by the Philadelphia Stock Exchange, Inc. Relating to the Definition of a Controlled Account

November 28, 2001.

I. Introduction

On March 12, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change related to the definition of a controlled account. On August 16, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.³ The proposed rule change was published for comment in the **Federal Register** on September 18, 2001.⁴ This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Phlx proposes to amend the definition of controlled accounts under Phlx Rule 1014(g)(i) and Option Floor Procedure Advice ("Advice") B-6. The proposed rule change would also make corresponding amendments to Phlx Rule 1014(g)(i) and Advice B-6 pertaining to the requirements to circle the "yield" field on order tickets. This proposed rule change has been filed in response to the Ordering Instituting Public Administrative Proceeding Pursuant to section 19(h)(1) of the Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3-10282 (the "Order"). Under Section IV.B.j of the Order, the Exchange is required to codify market maker practices pertaining to the allocation of orders.

Currently, Phlx Rule 1014(g) defines the term controlled account to include "any account controlled by or under common control with a member broker-dealer." Phlx Option Specialists, Registered Options Traders ("ROT's")

and other "firm proprietary" accounts (if for the account of a member broker-dealer) are included in this definition. Under the rule, if an account is not a controlled account, it is considered a customer account. Thus all other accounts, including non-member broker-dealer accounts, are considered customer accounts. Except for specialists and ROTs closing in-person, controlled accounts must yield priority to customer accounts. Presently, member broker-dealers are required to yield priority to non-member broker-dealer accounts because such accounts are considered customer accounts under the rule language. However, Phlx Rule 1014(g) has been interpreted to yield the priority of non-member broker-dealer orders to "true" customer orders, and treat non-member broker-dealer orders on par with member broker-dealer orders on the floor of the Exchange. This proposed rule change would codify the floor's interpretation of the term "controlled account."

Specifically, the proposed rule change would amend the controlled account definition to include a non-member broker-dealer account. Thus, non-member broker-dealers would be required to yield priority to public customer orders, and be treated on par with orders for accounts of member broker-dealers. For instance, currently, where both a customer and a non-member broker-dealer order bid for 100 contracts at the same time and at the same price, the customer and the non-member broker-dealer would each be entitled to 50 contracts of an incoming order to sell 100 contracts under the rule. However, under the proposed rule change, the customer's bid would have priority over the non-member broker-dealer and would receive the entire execution of an incoming sell order for 100 contracts at that price. In addition, under the proposed rule change, where a non-member broker-dealer and a ROT both bid for 100 contracts at the same time and at the same price, the ROT and the non-member broker-dealer would each be entitled to 50 contracts as opposed to the result under the current rule in which the non-member broker-dealer would have priority and be entitled to the entire execution of the incoming sell order for 100 contracts.

In addition, the proposed rule change would amend Advice B-6 to clarify that there is no requirement to circle the "yield" field on market maker order tickets because unlike customer order tickets, the tickets used for orders by ROTs and other exchanges' market makers (due to the processing needs of clearing firms), do not have such a category. This amendment would make

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy J. Sanow, Senior Special Counsel, Division of Market Regulation, Commission, dated August 15, 2001 ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 44809 (September 18, 2001), 66 FR 49056 (September 25, 2001).

⁴ 17 CFR 200.30-3(a)(12).

Advice B-6 consistent with the expanded definition of controlled account under the proposed rule change. Currently, specialists and ROTs closing-in person are not required to circle the yield field; this requirement would not change. Other controlled accounts would still be required to circle the yield field.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange.⁵ In particular, the proposed rule change is consistent with sections 6(b)(5) and 6(b)(8) of the Act.⁶ The Commission finds that proposed rule change is consistent with the requirements of section 6(b)(5) of the Act⁷ because the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also finds that the proposed rule change is consistent with section 6(b)(5) of the Act because the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Further, the Commission finds that the proposed rule change is consistent with section 6(b)(8) of the Act⁸ because the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Commission finds that it is consistent with sections 6(b)(5) and 6(b)(8) of the Act⁹ to treat non-member broker-dealers and member broker-dealers similarly by generally requiring that orders for such accounts yield to customer orders. In this regard, this rule is similar to protections offered to customer orders in other contexts. Further, the Commission finds that parity between orders for non-member broker-dealers and member broker-dealers, except for members (*i.e.*, specialists and ROTs) that close in-person, is appropriate and consistent with the Act.

⁵ In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5) and 78f(b)(8).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(8).

⁹ 15 U.S.C. 78f(b)(5) and 78f(b)(8).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-Phlx-2001-38), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-30139 Filed 12-4-01; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

President's Commission To Strengthen Social Security

AGENCY: Social Security Administration (SSA).

ACTION: Announcement of meeting location.

DATES: December 11, 2001 10:00 a.m.–6:00 p.m.

ADDRESSES: Park Hyatt Ballroom, Park Hyatt Washington, 24th at M Street NW., Washington, DC 20037, (202) 789-1234.

SUPPLEMENTARY INFORMATION: The **Federal Register** notice announcing the December 11 meeting of the President's Commission to Strengthen Social Security did not include a meeting location. The purpose of this announcement is to provide the meeting location.

The Commission will meet commencing Tuesday, December 11, at 10:00 a.m. and ending at 6:00 p.m., with a break for lunch between 12:30 p.m. and 1:30 p.m. The Commission will be discussing its draft Final Report.

Dated: November 30, 2001.

Michael A. Anzick,
Designated Federal Officer.

[FR Doc. 01-30244 Filed 12-4-01; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 3850]

Designation of Certain Posts for Special Fee Payment Procedures

This public notice adds additional posts, located in India and Vietnam, to those already designated by the Deputy Assistant Secretary for Visa Services for two purposes related to the payment of immigrant visa fees. The first purpose

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

relates to the revised procedure for payment of the fee for the processing of the application for an immigrant visa set forth in the **Federal Register** on September 8, 2000, (65 FR 54598). The effective date of that notice was stayed until January 1, 2001 by a public notice in the **Federal Register** of December 14, 2000, (65 FR 78243).

The second purpose is to identify the posts for which a fee pursuant to Item 61 of the Schedule of Fees for Consular Services (22 CFR 22.1) will be assessed for advance review of and assistance with the Affidavit of Support that is required in certain immigrant visa cases. Notice of this fee requirement was added to the visa regulation pertaining to the Affidavit of Support requirement in 22 CFR 40.41(b), and was effective January 1, 2001.

The Department will publish further public notices as additional designations are made.

The Deputy Assistant Secretary for Visa Services has designated the Foreign Service posts in the following cities for participation in the new immigrant visa application processing fee payment system and the fee for review of and assistance with the Affidavit of Support required under section 213A of the Immigration and Nationality Act. The effective date of this notice is October 1, 2001.

Abidjan, Cote D'Ivoire
Accra, Ghana
Addis Ababa, Ethiopia
Algiers, Algeria
Antananarivo, Madagascar
Bogota, Colombia
Cairo, Egypt
Chennai, India
Casablanca, Morocco
Ciudad Juarez, Mexico
Cotonou, Benin
Dakar, Senegal
Dar-es-Salaam, Tanzania
Djibouti, Djibouti
Freetown, Sierra Leone
Georgetown, Guyana
Guangzhou, China
Harare, Zimbabwe
Ho Chi Minh City, Vietnam
Johannesburg, South Africa
Kinshasa, Democratic Republic of the Congo
Lagos, Nigeria
Libreville, Gabon
Lilongwe, Malawi
Lome, Togo
Lusaka, Zambia
Manila, Philippines
Monrovia, Liberia
Montreal, Canada
Mumbai, India
Nairobi, Kenya
New Delhi, India

Niamey, Niger
Ouagadougou, Burkina Faso
Port-au-Prince, Haiti
Praia, Cape Verde Islands
Santo Domingo, Dominican Republic
Tirana, Albania
Tunis, Tunisia
Yaounde, Cameroon

Dated: November 26, 2001.

Wayne G. Griffith,

*Deputy Assistant Secretary for Visa Services,
U.S. Department of State.*

[FR Doc. 01-30136 Filed 12-4-01; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice 3851]

Future Leaders Exchange (FLEX) Computer Training of Trainers Workshop; Request for Proposals

SUMMARY: The Office of Citizen Exchanges, Division of the NIS Secondary School Initiative of the United States Information Agency's Bureau of Educational and Cultural Affairs, announces an open competition for the Computer Training of Trainers Workshop for the Future Leaders Exchange (FLEX) program. The FLEX program brings secondary students from the New Independent States (NIS) of the former Soviet Union to the U.S. for an academic year. During their time in the U.S., FLEX students live with American host families and attend U.S. high schools.

The primary goal of the Computer Training of Trainers Workshop is to train the participants to educate others in basic computer skills and Internet access. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501c(3) may submit proposals to conduct a one-week workshop in Spring, 2002 to train a minimum of 30 FLEX students.

Participants will be selected from among a group of 1200 students. We anticipate the maximum grant award to be approximately \$75,000. Cost sharing to maximize the number of participants will be looked at very favorably.

Program Information

The recipient of the grant is responsible for developing and conducting the Computer Training of Trainers Workshop based on guidelines set forth by the Division. The grantee organization will also have responsibility for selecting participants. Additional responsibilities include coordinating travel arrangements for each participant from his/her host

community to the training site and return, and for providing room and board for students during their time at the workshop.

Background

Academic year 2001/2002 is the ninth year of the FSA/FLEX program, which now includes over 10,000 alumni. This component of the NIS Secondary School Initiative was originally authorized under the FREEDOM Support Act of 1992 and is funded by annual allocations from the Foreign Operations and Department of State appropriations. The goals of the program are to promote mutual understanding and foster a relationship between the people of the NIS and the U.S.; assist the successor generation of the NIS to develop the qualities it will need to lead in the transformation of those countries in the 21st century; and to promote democratic values and civic responsibility by giving NIS youth the opportunity to live in American society for an academic year.

Other Components

Two organizations have already been awarded grants to perform functions that include recruitment, selection, international travel of all FLEX students, and ongoing follow-up with alumni upon their return to the NIS. Additionally, "placement organizations" have been awarded grants to place FSA/FLEX students in schools and homestays for the academic year. The organization selected for the Computer Training of Trainers Workshop will need to request that each placement organization disseminate information on the workshop to all its students and assist in coordinating travel of finalists to the workshop site, and return.

Overview

Workshop participants should be selected according to computer ability, interest, and teaching potential as well as motivation to help citizens of their countries. The workshop should provide an opportunity, first and foremost, for participants to learn about teaching methodologies that will enable them to instruct others. In addition, this can serve as a venue for them to improve their computer expertise so they will be well-prepared to teach these skills to others. Participants should learn about tools they can use to teach basic computer skills, keeping in mind that some of these tools may not be available in their home countries. They should also gain an awareness of how computers can enhance societal development through communication with appropriate organizations, distance

learning projects, local language web sites, etc. Particular attention should be paid to those issues that will be especially significant to people from the former Soviet Union. The program should be arranged for seven days, including arrival and departure.

Selection of workshop participants will be completed by the recipient of the grant through a merit-based, equitable selection process. Finalists must represent all 12 NIS countries.

Guidelines

The workshop should be held in Spring 2002, preferably in March or April. Proposals must effectively describe the organization's ability to accomplish the following essential components of the program:

1. Provide a Computer Training of Trainers Workshop, as described above and, preferably, at the time period indicated.
2. Include a description of the student selection process.
3. Describe training that will be provided for organization staff on NIS society and culture.
4. Provide housing and meals for the students throughout the program.
5. Arrange travel for students from their U.S. host communities to the training site, and return, in coordination with FLEX placement organizations. (**Note:** Students will likely be coming from as many as 30 states.) Provide ground transportation for students in the training area, including to and from airports.
6. Provide opportunities to attend cultural events in the area during non-class hours.
7. Provide staff to assist in case of medical emergencies.
8. Incorporate a program component designed to facilitate students' transition from the computer workshop to their host communities.
9. Include a description of the ways in which students will be encouraged to share what they have learned in their U.S. host communities, and to teach others when they return to their home countries. Include a plan for how returning students will interface with FLEX alumni associations that exist throughout the NIS.
10. Provide a mechanism in which participants can continue to communicate with each other upon completion of the workshop.
11. Provide tools for evaluation of the program in terms of its impact on the students and its success in fulfilling objectives, particularly the component that involves their teaching others in their home countries. Plan for continued activity to build upon program

achievements without additional U.S. government support.

A competitive proposal will incorporate important elements of American/NIS culture in sessions that are largely interactive and designed to appeal to high school-age students. The program must be substantive and academic while, at the same time, paced realistically to meet the needs of young people. A strong proposal will reflect a clear, convincing agenda outlining exactly how the program will be carried out and how outcomes will be accomplished as a result of the grant. Knowledge of the current technological capacity (Internet connectivity, e-mail, hardware and software) of NIS countries is essential.

Please refer to the Program Objectives, Goals, and Implementation (POGI) section of the Solicitation Package for greater detail regarding the design of component parts as well as other program information.

Budget Guidelines

Organizations must submit proposals that arrange a program for a minimum of 30 students, but may increase the number of participants through cost sharing. Proposals that maximize the number of students will be favorably viewed. One grant will be awarded for this activity. It is estimated that the total costs of the Computer Training of Trainers Workshop will average \$2,500 per NIS participant for a one-week program, including U.S. domestic travel.

Applicants must submit a comprehensive budget for the entire program. We anticipate awarding one grant for approximately \$75,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Please refer to the Solicitation Package for further details and for complete budget guidelines and formatting instructions.

Allowable costs for the program include the following:

- (1) Transportation for participants from their host U.S. cities/towns to workshop site.
- (2) Daily travel to/from workshop site location.
- (3) Room and board during the time of the workshop.
- (4) Rental of facilities and equipment.
- (5) Fees for related activities/excursions.
- (6) Honoraria for speakers/trainers, as appropriate.
- (7) Supplies.
- (8) Security services.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number

All correspondence with the Bureau concerning this RFGP should reference the above title and number *ECA/PE/C/PY-02-40*.

FOR FURTHER INFORMATION, CONTACT: The Youth Programs Division, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, phone: 202/619-6299, fax: 202/619-5311, e-mail: <lbeach@pd.state.gov> to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Anna Mussman on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from the Bureau's web site at <http://exchanges.state.gov/education/RFGPs>. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on January 14, 2002. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. It is the responsibility of each applicant to ensure that its proposal is received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be sent to: U.S. Department of State, SA-44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY-02-40, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but

not limited to ethnicity, race, gender, religion, geographic location, socioeconomic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104-319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106-113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the organization will meet the program's objectives and plan.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposing organization should demonstrate it has experience with computer education, preferably with youth, as well as familiarity with the culture of the New Independent States (NIS) of the former Soviet Union.

6. *Track Record:* Proposals should demonstrate an institutional record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. *Multiplier effect/impact:* Proposed programs should describe how workshop participants will be motivated and enabled to reach out to other individuals in their communities in the U.S. and in their home countries.

8. *Follow-on Activities:* Proposals should describe how the program will track participants to confirm that they share their knowledge and information with their U.S. communities and organize ways to teach others in their home countries.

9. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended. Successful applicants will be expected to submit a final report after the project has been completed.

10. *Cost-effectiveness/Cost Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as

well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation of the Freedom Support Act.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: November 26, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01-30137 Filed 12-4-01; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Greater Kankakee Airport, Kankakee, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Corrected notice of intent of waiver with respect to land.

SUMMARY: Previous notice of intent of waiver with respect to land was published in the **Federal Register** on November 27, 2001 (page 59297). The notice provided that comments must be received on or before November 27, 2001 and did not provide 30 days for public comment as required. This corrected notice amends the date for comments to be filed. Comments must be received on or before December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Program Manager, 2300 East Devon Avenue, Des Plaines, IL, 60018. Telephone Number 847-294-7195/FAX Number 847-294-7046.

Issued in Des Plaines, Illinois on November 28, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 01-30175 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Land at the Safford Municipal Airport, Safford, Arizona From Certain Restrictions Contained in the Patent Dated April 3, 1956

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request to release airport land from certain restrictions contained in the Patent No. 1158979 dated April 3, 1956.

SUMMARY: The FAA proposes to rule and invites public comment on the release of approximately 183.30 acres of land at the Safford Municipal Airport, Safford, Arizona, from certain restrictions contained in the Patent dated April 3, 1956. The purpose of the release is to permit the use of approximately 183.30 acres of airport property to be developed for non-aeronautical purposes, but remain dedicated airport land.

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, P.O. Box 92007, Los Angeles, CA 90009. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ronald Jacobson, City

Manager, City of Safford, P.O. Box 272
Safford, AZ 85548-0272.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Flynn, Supervisor, Arizona Standards Section, Airports Division, AWP-623, P.O. Box 92007, Los Angeles, CA 90009, Telephone: (310) 725-3632. Arrangements may be made with Mr. Flynn to review the request to release the subject airport property from certain obligations in person at the FAA Western-Pacific Regional office, 15000 Aviation Blvd., Hawthorne, CA 90250.

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10-181 (Apr. 5, 2000; 114 Stat. 61), requires that a 30-day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

The following is a brief overview of the request:

On April 3, 1956, the United States Department of Interior, acting under the authority of section 16 of the Federal Airport Act of 1946, granted patent No. 1158979 to the Town of Safford, Arizona for 692.66 acres to be developed as a public use airport. The City of Safford has requested the release of approximately 183.30 acres of dedicated airport land at the Safford Municipal Airport, Safford Arizona from certain restrictions contained in the Patent dated April 3, 1956. The purpose of the release is to permit the use of dedicated airport property for non-aeronautical purposes. Net proceeds from the leasing and development of the subject land will be utilized by the city for capital improvements, operation, and maintenance at the Safford Municipal Airport.

Issued in Hawthorne, California, on November 15, 2001.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01-30133 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2001-92]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Disposition of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267-8033, Sandy Buchanan-Sumter (202) 267-7271, or Vanessa Wilkins (202) 267-8029, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on November 29, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: FAA-2001-10789 (previously Docket No. 29903).

Petitioner: Bain Aviation, Inc., dba Tavaero Jet Charter, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit TJC to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7146A.

Docket No.: FAA-2001-10793 (previously Docket No. 29116).

Petitioner: Taconite Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit TAI to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 6735B.

Docket No.: FAA-2001-9618 (previously Docket No. 24165).

Petitioner: U.S. Air Force.
Section of 14 CFR Affected: 14 CFR 91.209(a) and (b).

Description of Relief Sought/Disposition: To permit the USAF to conduct helicopter night-vision flight

training operations without lighted aircraft position lights at or below 500 feet above ground level.

Grant, 11/13/2001, Exemption No. 5891B.

Docket No.: FAA-2001-10790 (previously Docket No. 27118).

Petitioner: Air Logistics, L.L.C.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Air Logistics to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 6736B.

Docket No.: FAA-2001-10920.

Petitioner: Yute Air Taxi, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit YAT to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7658.

Docket No.: FAA-2001-10838.

Petitioner: Frontline Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit FAI to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7660.

Docket No.: FAA-2001-10839.

Petitioner: Alaska Flying Tours.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit AFT to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7657.

Docket No.: FAA-2001-10927.

Petitioner: Miller Aero Services, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit MAS to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7659.

Docket No.: FAA-2001-10853

(previously Docket No. 29783).
Petitioner: Indianapolis Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/
Disposition: To permit IAI to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

Grant, 11/13/2001, Exemption No. 7082A.

[FR Doc. 01-30131 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2001-93]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267-8033, Sandy Buchanan-Sumter (202) 267-7271, or Vanessa Wilkins (202) 267-8029, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC., on November 29, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA-2001-10384 (previously Docket No. 29137).

Petitioner: Weary Warriors Squadron.
Section of 14 CFR Affected: 14 CFR 91.315, 119.21(g), and 119.21(a).

Description of Relief Sought/
Disposition: To permit WWS to operate its North American B-25 aircraft, which is certificated in the limited category, for the purpose of carrying passengers for compensation or hire.

Grant, 11/01/2001, Exemption No. 6786B.

Docket No.: FAA-2001-10452 (previously Docket No. 29599).

Petitioner: Air Logistics, L.L.C.
Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/
Disposition: To permit Air Logistics to place and maintain its Inspection Procedures Manual (IPM) in a number of fixed locations within its facility in lieu of giving a copy of the IPM to each of its supervisory and inspection personnel.

Grant, 10/24/2001, Exemption No. 7097A.

Docket No.: FAA-2001-10876.

Petitioner: EAA Aviation Foundation, Inc., and Experimental Aircraft Association, Inc.

Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).

Description of Relief Sought/
Disposition: To permit EAA to operate its Boeing B-17 airplane, which is certificated in the limited category, for the purpose of carrying its members for compensation or hire in its former military vintage airplane on local flights for educational and historical purposes.

Grant, 10/30/2001, Exemption No. 6541C.

Docket No.: FAA-2001-9780.

Petitioner: Schwartz Engineering Company.

Section of 14 CFR Affected: 14 CFR 25.813(e).

Description of Relief Sought/
Disposition: To permit SEC to install interior "hinged/slab" doors between passenger compartments on one private-use Boeing Model 737-700 IGW airplane.

Denial, 11/02/2001, Exemption No. 7656.

[FR Doc. 01-30132 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02-05-C-00-BGM To Impose/Use the Revenue from a Passenger Facility Charge (PFC) at Binghamton Regional Airport, Binghamton, New York

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/use the revenue from a PFC at Binghamton 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) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Carl R. Beardsley, Jr., Deputy Commissioner of Aviation of the Broome County Department of Aviation at the following address: Broome County Department of Aviation, 2534 Airport Road, Box 16, Johnson City, NY 13790.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Broome County Department of Aviation under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT:

Philip Brito, Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530, Telephone: (516) 227-3800. The application may be reviewed in person at the same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose/use the revenue from a PFC at Binghamton 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) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 31, 2001, the FAA determined that the application to impose/use the revenue from a PFC submitted by the Broome County Department of Aviation was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 19, 2001.

The following is a brief overview of the application.

PFC Application No.: 02-05-C-00-BGM.

Level of the proposed PFC: \$3.00.

Proposed charge effective date: February 1, 2002.

Proposed charge expiration date: July 31, 2006.

Total estimated PFC revenue: \$1,445,438.

Brief description of proposed project(s):

Impose Only:
 —Airport Service Road Improvements—Phase I
 —ARFF Facility Refurbishment
 —Passenger Boarding Bridge Purchase
 —Runway 16–34 Refurbishment Design/Construction
 Impose and Use:
 —Snow Removal Equipment Purchase
 —Fire Rescue Equipment
 —Runway 16–34 RSA EMAS Design/Construction
 —Airport Master Plan Update
 Use:
 —Maintenance Building
 Construction—Construction Phase
Class of classes of air carriers which the public agency has requested not be required to collect PFCs: Non-Scheduled/On Demand 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, Eastern Region, Airports Division, AEA-610, 1 Aviation Plaza, Jamaica, New York 11434–4809.

In addition, any person may, upon request, inspect the FAA application, notice and other documents germane to the application in person at the Broome County Department of Aviation.

Issued in Garden City, New York on November 27, 2001.

Philip Brito,

Manager, New York Airports District Office, Eastern Region.

[FR Doc. 01–30176 Filed 12–4–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Dayton International Airport for Use at Dayton International Airport and Dayton-Wright Brothers Airport, Dayton, Ohio**

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 a PFC at Dayton International Airport for use at Dayton International Airport and Dayton-Wright Brothers 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 January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. The application may be reviewed in person at this location.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Eugene B. Conrad, Jr., A.A.E., Dayton International Airport at the following address: Dayton International Airport, 3600 Terminal Drive, Suite 300, Vandalia, Ohio, 45377.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Dayton International Airport under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Arlene B. Draper, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (734–487–7282). 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 a PFC at Dayton International Airport and to use the revenue at Dayton International Airport and Dayton-Wright Brothers 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 September 27, 2001, the FAA determined that the application to impose a PFC at Dayton International Airport and to use the revenue at Dayton International and Wright-Brothers Airports submitted by the City of Dayton was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, not later than December 26, 2001.

The following is a brief overview of the application.

PFC application number: 01–03–C–00–DAY.

Level of the proposed PFC: \$4.50.

Proposed charge effective date: March 1, 2004.

Proposed charge expiration date: August 1, 2014.

Total estimated PFC revenue: \$64,670,915.00.

Brief description of proposed projects:
Dayton International: Runway Pavement Rehabilitation, Environmental Impact Study, Deicing System Improvements, Backup Generator-Airfield, Aircraft Rescue and Fire Fighting (ARFF) Station Renovation and Expansion, Taxiways A and Z Rehabilitation, Taxiway H, K, E, C, L and V Rehabilitation, Cargo and Terminal Aircraft Apron Rehabilitation, Land Acquisition-Approach and Runway Protection, Airfield Snow Removal Equipment, ARFF Vehicle Replacement (Rescue 22), Backup Generator-Terminal, Terminal Gate Expansion, Terminal Drive and Related Roads Rehabilitation, Southwest Terminal Apron, Northeast Deicing Apron, Computerized Airfield Lighting Control System, Perimeter Road, Far Part 150 Noise Study—Phase 1, 2, and Final, Airport Police Offices Renovation. Dayton-Wright Brothers Airport: Land Acquisition and Approach Protection for Runway End 20, Runway 2/20 and Other Pavement Rehabilitation. Class or classes of air carriers which the public agency has requested to be required to collect PFCs: air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Dayton International Airport, 5300 Riverside Drive, Dayton, Ohio 44135.

Issued in Des Plaines, Illinois on November 27, 2001.

Mark McClardy,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–30134 Filed 12–4–01; 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 Duluth International Airport, Duluth Minnesota**

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 Duluth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 part 158).

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Minneapolis Airports District office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450-2706.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond Klosowski, Executive Director, Duluth Airport Authority, at the following address: Duluth Airport Authority, Duluth International Airport, 4701 Grinder Drive, Duluth, MN 55811. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Duluth Airport Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon Nelson, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450-2706, (612) 713-4358. 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 Duluth International Airport Under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 18, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Duluth Airport authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 16, 2002.

The following is a brief overview of the application.

PFC application number: 01-05-C-00-DLH.

Level of the proposed FPC: \$4.50.

Proposed charge effective date: March 1, 2002.

Proposed charge expiration date: March 1, 2003.

Total estimated FPC revenue: \$554,556.00.

Brief description of proposed projects: Prepare PFC application; upgrade surveillance camera system (Phase II); repair and replace concrete panels for Runway 9-27 and reconstruct a segment of Taxiway A; design Runway 9 Cat II Instrument Landing System (ILS) and midfield runway Visual Range (RVR); reconstruct passenger terminal apron; improve runway 9 safety area (west end); install runway 9 high intensity approach lighting system with sequenced flashing lights (ALS-2); acquire 8.5 acres of wetland credits; improve runway safety area at the southwest end of runway 3-21; construct perimeter road around the southwest end of Runway 3-21; install 12,950 feet of 6-ft high security fence and 2,700 feet of ten-foot high deer fence. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: non-scheduled part 135 Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**".

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Duluth Airport Authority Office.

Issued in Des Plaines, Illinois, on November 27, 2001.

Mark McClardy,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01-30135 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Subject of Intent To Rule on Application To Impose and Use the Revenue From A Passenger Facility Charge (PFC) at Orlando International Airport, Orlando, Florida

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 Orlando

International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, FL 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. C.W. Jennings, Executive Director of the Greater Orlando Aviation Authority at the following address: Mr. C.W. Jennings, Executive Director, Greater Orlando Aviation Authority, One Airport Boulevard, Orlando, FL 32827-4399.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Greater Orlando Aviation Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Bud Jackman, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, FL 32822, (407) 812-6331, x22. 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 Orlando International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 21, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Greater Orlando Aviation Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 14, 2002.

The following is a brief overview of the application.

PFC Application No.: 02-09-C-00-MCO.

Level of the proposed PFC: \$3.00.

Proposed charge effective date: February 1, 2014.

Proposed charge expiration date: February 1, 2017.

Total estimated net PFC revenue:
\$219,494,000.

Brief description of proposed project(s):

Landside Terminal Level 1 Modifications,
Six Bank Elevator Improvements,
Baggage Conveyor System—Landside Levels 1&2,
Central Plant Improvements Phase 3,
Fourth Runway (9,000 ft by 150 ft),
Drainage Improvements (Wildlife Attractants Mitigation),
Intermodal Transit System (ITS),
Replacement of 180,000 LF of Pavement Joints for Runway 17–35,
Satellite Aircraft Rescue and Fire Fighting (ARFF) Facility,
800 MHz Radio System—Digital Upgrade,
Baggage Sorting System Upgrade,
Taxiway Lighting Improvements,
Mobile Command Post,
Surface Movement Guidance Control System,
Automated Guide way Transit (AGT) Rehabilitation Program,
Emergency Operations Center,
Aircraft Rescue and Fire Fighting (ARFF) Vehicles.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Greater Orlando Aviation Authority.

Dated: Issued in Orlando, Florida on November 28, 2001.

W. Dean Stringer,

Manager, Orlando Airports District Office,
Southern Region.

[FR Doc. 01–30177 Filed 12–4–01; 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 October 2001, there were six applications approved. Additionally, 11 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: Shenandoah Valley Regional Airport Commission, Weyers Cave, Virginia.

Application Number: 01–01–C–00–SHD.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in this Decision: \$207,875.

Earliest Charge Effective Date: December 1, 2001.

Estimated Charge Expiration Date: December 1, 2006.

Classes of Air Carriers Not Required To Collect PFC's: (1) Unscheduled Part 135 air taxi/commercial operators for hire to the general public and (2) unscheduled Part 121 charter operators for hire to the general public.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Shenandoah Valley Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Develop PFC program and application.

Install medium intensity taxiway lights, airfield guidance signs, and precision approach path indicator.

Design and construct apron expansion.

Design and rehabilitate general aviation apron.

Design and construct runway safety area—runway 5.

Acquisition of snow removal and friction testing equipment.

Update airport layout plan.

Install stand-by emergency generator.

Decision Date: October 2, 2001.

FOR FURTHER INFORMATION CONTACT:

Eleanor Schifflin, Eastern Region Airports Division, (718) 553–3354.

Public Agency: City of Bismarck, North Dakota.

Application Number: 01–03–C–00–BIS.

Application Type: Impose and use a PFC.

PFC Level: \$4.50.

Total PFC Revenue Approved in this Decision: \$925,522.

Earliest Charge Effective Date: May 1, 2002.

Estimated Charge Expiration Date: January 1, 2004.

Classes of Air Carriers Not Required To Collect PFC's: Air taxis filing FAA Form 1800–31, except commuter air carriers.

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 Bismarck Municipal Airport.

Brief Description of Projects Approved for Collection and Use:

Remove taxiway A–4 and construct taxiway C–4.

Update security access system.

Extend taxiway C and reconfigure runway 13/31 exit taxiways.

Remove taxiways A, A–1, A–3, C–1, C–2, and associated electrical facilities.

Abandon and remove runway 17/35 and associated electrical facilities.

Replace general aviation apron.

Update airport master plan—terminal area study.

Replace airport beacon.

Terminal ramp rehabilitation.

Purchase broom truck.

PFC application preparation.

Decision Date: October 15, 2001.

FOR FURTHER INFORMATION CONTACT:

Thomas T. Schauer, Bismarck Airports District Office, (701) 323–7380.

Public Agency: Port of Seattle, Washington.

Application Number: 01–06–U–00–SEA.

Application Type: Use PFC revenue.

PFC Level: \$3.00.

Total PFC Revenue Approved in this Decision: \$50,000,000.

Charge Effective Date: January 1, 2004.

Estimated Charge Expiration Date: September 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Collection and Use: Noise remedy program.

Decision Date: October 16, 2001.

FOR FURTHER INFORMATION CONTACT:

Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: County of Ventura Department of Airports, Oxnard, California.

Application Number: 01–01–C–00–OXR.

Application Type: Impose and use a PFC.

PFC Level: \$4.50.

Total PFC Revenue Approved in this Decision: \$872,000.
 Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: June 1, 2007.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Revise/amend updates to airport master plan and Part 150 noise study.

Rehabilitate airport pavement, runway 7/25 and exit taxiways.

Rehabilitate terminal loop road.

Decision Date: October 19, 2001.

FOR FURTHER INFORMATION CONTACT:

Dave Delshad, Western Pacific Region Airports Division, (310) 725-3627.

Public Agency: City of Harlingen, Texas.

Application Number: 01-02-C-00-HRL.

Application Type: Impose and use a PFC.

PFC Level: \$3.00.

Total PFC Revenue Approved in this Decision: \$5,032,330.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: February 1, 2006.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators operating under Part 135 and 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 Valley International Airport.

Brief Description of Projects Approved for Collection and Use:

Construct air cargo apron.

Extend Bodenhamer Drive.

Install air cargo ramp lighting.

Acquire and install passenger loading bridge.

Overlay access roads.

Rehabilitate taxiway F.

Construct runway 17 blast pad.

Rehabilitate runways 17R/35L and 13/31 lighting.

Acquire 180 acres for runways 35L and 35R protection zones.

Construct taxiways L and M.

Improve runways 15L and 35R safety areas.

Rehabilitate and extend taxiway C.

Rehabilitate air carrier apron.

Convert runway 8/26 to a taxiway.

Reconstruct perimeter road.

Rehabilitate north general aviation apron.

Rehabilitate west cargo apron.

Rehabilitate taxiways J and K.

Rehabilitate terminal.

Rehabilitate terminal access road.

PFC administrative costs.

Decision Date: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: G. Thomas Wade, Southwest Region Airports Division, (817) 222-5613.

Public Agency: County of Victoria, Texas.

Application Number: 01-03-C-00-VCT.

Application Type: Impose and use a PFC.

PFC Level: \$4.50.

Total PFC Revenue Approved in this Decision: \$182,356.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: March 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Acquire aircraft rescue and firefighting vehicle.

Acquire airfield sweeper.

Update airport master plan.

Rehabilitate runways 12L/30R and 17/35.

Rehabilitate medium intensity taxiway lights on taxiways A and B.

Decision Date: October 30, 2001.

FOR FURTHER INFORMATION CONTACT: G. Thomas Wade, Southwest Region Airports Division, (817) 222-5613.

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
99-03-C-01-PLB Plattsburgh, NY	09/26/01	\$63,764	\$7,264	03/01/01	02/01/99
98-05-C-01-MEI Meridian, MS	10/01/01	121,650	234,082	09/01/02	02/01/04
*92-01-C-02-PSP Palm Springs, CA	10/09/01	81,888,919	76,883,179	11/01/32	07/01/24
00-03-C-01-BHM Birmingham, AL	10/11/01	8,000,000	13,500,000	11/01/02	04/01/03
98-05-C-02-BNA Nashville, TN	10/16/01	2,355,000	2,855,000	10/01/01	11/01/01
*96-03-C-02-MGW Morgantown, WV	10/16/01	18,450	18,450	02/01/02	02/01/02
*99-05-C-01-MGW Morgantown, WV	10/16/01	192,739	192,739	07/01/05	06/01/04
*97-03-C-02-MIA Miami, FL	10/18/01	253,011,000	253,011,000	01/01/04	02/01/03
*99-01-C-01-AEX Alexandria, LA	10/20/01	5,378,352	5,378,352	11/01/20	07/01/12
*99-02-C-01-PUW Pullman, WA	10/24/01	714,731	714,731	03/01/05	05/01/04
95-02-C-01-SF Sacramento, CA	10/31/01	7,327,560	6,049,560	03/01/97	03/01/97

NOTE: The amendments denoted by an asterisk (*) include a change to the PFC level charged from \$2.00 or \$3.00 per enplaned passenger to \$4.50 per enplaned passenger. For Morgantown, WV, this change is effective on December 1, 2001. For Palm Springs, CA, Miami, FL, Alexandria, LA, and Pullman, WA, this change is effective on January 1, 2002.

Issued in Washington, DC, on November 29, 2001.

Sheryl Scarborough,

Program Analyst, Passenger Facility Charge Branch.

[FR Doc. 01-30174 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: King County Washington

AGENCY: Federal Highway Administration (FHWA), King County Department of Transportation, Washington.

ACTION: Notice of Intent to prepare a draft supplemental environmental impact statement (EIS).

SUMMARY: The FHWA, in cooperation with the Washington State Department of Transportation and King County Department of Transportation, is issuing this notice to advise the public that a supplemental to the final environmental impact statement (EIS) will be prepared on the proposal to replace the Elliott Bridge on 149th Avenue Southeast where it crosses the Cedar River

approximately three miles east of downtown Renton in King County, Washington.

FOR FURTHER INFORMATION CONTACT: Elizabeth Healy, Transportation and Environmental Engineer, Federal Highway Administration, 711 South Capital Way, Suite 501, Olympia, Washington, 98501-1284, Telephone: (360) 753-9480 or Tina Morehead, Senior Environmental Engineer, King County, Road Services Division, Department of Transportation, King Street Center M.S. KSC-0231, 201 South Jackson Street, Seattle, WA 98104-3856, Telephone: (206) 296-3733.

SUPPLEMENTARY INFORMATION: The Record of Decision for the original EIS for the improvements (FHWA-WA-EIS-92-4-F) was signed on November 21, 1995. In the original EIS, the proposed improvements to the Elliott Bridge provided a three-lane bridge (two travel lanes and one center lane) with pedestrian sidewalk and associated approach road realignment. Improvements to the bridge were and still are considered necessary to provide for traffic circulation, roadway safety, and structural stability.

After approval and subsequent appeal of the local shoreline substantial development permit, King County withdrew its shoreline permit application based on issues related to the federal Endangered Species Act. Since that withdrawal, the county has reevaluated the original purpose and need for the project, reviewed and expanded the alternatives considered, and determined that a supplemental EIS needs to be prepared.

Alternatives under consideration include four action alternatives in addition to the no-action alternative. The four action alternatives include: Alternative 1S—replacing the existing bridge with a new bridge approximately 50 feet east of the existing bridge and constructing two offset tee-intersections to provide connections to Southeast Jones Place and Jones Road; Alternative 4S—replacing the existing bridge with a new bridge approximately 820 feet east of the existing bridge and constructing a new road alignment from the existing tee intersection of 152nd Avenue Southeast and SR 169 northeasterly to tie into the existing 154th Place Southeast approximately 1,100 feet north of the new bridge, and constructing a new intersection with Jones Road; Alternative 5S—similar to 4S but the new bridge would be located approximately 180 feet further east; and Alternative 7Sb replacing the existing bridge with a new bridge approximately 65 feet west of the existing bridge and

constructing a tee intersection to provide connection to Southeast Jones Place and a right turn lane from 154th Place Southeast to Jones Road.

No formal scoping period will be held. Letters describing the proposed action and soliciting comments will be sent to approximate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Subsequent to distribution of the draft supplemental EIS, a public hearing will be held during the draft supplemental EIS comment period. The location and time of the public hearing will be announced in the local news media and through a public mailing when it is scheduled. The draft supplemental EIS will be available for public and agency review prior to the public hearing. Release of the draft supplemental EIS for public comment and the public hearing will also be announced in the local news media as these dates are established.

Comments or questions concerning this proposed action and the supplemental EIS should be directed to the FHWA or King County at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernment consultation on Federal programs and activities apply to this program.)

Issued on: November 28, 2001.

Elizabeth Healy,

Transportation and Environmental Engineer.

[FR Doc. 01-30167 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mercer and Middlesex Counties, NJ

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Notice of scoping forum.

SUMMARY: Notice is hereby given that the Federal Highway Administration and the New Jersey Department of Transportation will be holding a Scoping Forum for the purpose of soliciting public comments on the scope of work to be performed for the Penns Neck Area Environmental Impact Statement (EIS).

The Scoping Forum will include brief presentations to introduce the overall study and the project team; describe the

study's background and objectives; review the process that will be followed to evaluate all potential solutions; and introduce the technical studies, categories of possible actions, and range of impacts that the EIS will assess for all potential options. The remainder of the session will be a public comment period, wherein the public will be invited to offer statements of up to five minutes each, commenting on the study's scope of work and on the range of solutions to be considered in the EIS.

SCHEDULE FOR SCOPING FORUM

Date: Tuesday, December 4, 2001.

Time: Presentation, followed by continuous public comment period 11 a.m. to 7 p.m.; Repeat of presentation followed by continuation of public comment period, 7 p.m. to 11 p.m.

Place: West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, NJ.

If needed, a supplemental public comment period will be held on Thursday, December 6th at the West Windsor Municipal Complex, from 7 p.m. to 11 p.m., to accommodate additional speakers who could not be scheduled due to time limitations.

COMMENT DUE DATE: All comments made during the Scoping Forum public comment period will be recorded and become part of the official record of the proceedings. Written statements on the scope of work for the Penns Neck Area EIS may also be submitted, either at the Scoping Forum, or by forwarding them to Helen Neuhaus & Associates (see information below). All statements received by January 7, 2002, will be included in the official record.

AVAILABILITY OF INFORMATION: Documents related to the project and Scoping Forum can be reviewed on the project website at www.pennsneckareaseis.org. They are also available at any of the following project repositories (please call for hours):

West Windsor Township Public Library, 333 N. Post Road, West Windsor, NJ (609) 799-0462

Princeton Township Clerk's Office, 369 Witherspoon Street, Princeton Township, NJ (609) 924-5176

Princeton Borough Clerk's Office, Borough Hall, 1 Monument Drive, Princeton, NJ (609) 497-7622

Plainsboro Public Library, 641 Plainsboro Road, Plainsboro, NJ (609) 275-2898

Rutgers University Transportation Policy Institute, 33 Livingston Avenue, New Brunswick, NJ (732) 932-6812

Ext. 593, New Jersey Department of Transportation, 1035 Parkway Avenue, Ewing, NJ (609) 530-2824

[Ask for Andy Fekete]

AGENCY SCOPING MEETING: A scoping meeting for public agencies will be held at a later date.

PRE-REGISTRATION FOR SCOPING FORUM AND FURTHER INFORMATION: For further information regarding the Penns Neck Area EIS, please contact Randell Prescott, Program Operations Director or Amy Fox, Environmental Coordinator, Federal Highway Administration, 840 Bear Tavern Road, Suite 310, West Trenton, NJ 08628. To pre-register and reserve a speaking time during the public comment period, please contact Helen Neuhaus by phone: (212) 532-4175; mail: 432 Park Avenue South, New York, NY 10016; email: hna1977@aol.com; or fax: (212) 532-7479.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: November 21, 2001.

Randell Prescott,

Program Operations Director, FHWA—New Jersey Division, Trenton.

[FR Doc. 01-30085 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

**Environmental Impact Statement:
Waukesha County, WI**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Supplemental notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for transportation improvements in the State Trunk Highway (STH) 83 corridor between County Trunk Highway (CTH) "NN" at the north limits of the Village of Mukwonago and STH 16, Waukesha County, Wisconsin. The north terminus was extended since the notice of intent was published in the **Federal Register** on March 26, 2001 (66 FR 16520).

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Madrzak, Field Operations Engineer, Federal Highway Administration, 567 D'Onofrio Drive, Madison, Wisconsin, 53719-2814; telephone: (608) 829-7510. You may also contact Ms. Carol Cutshall, Director, Bureau of Environment, Wisconsin Department of Transportation, P.O. Box 7965,

Madison, Wisconsin, 53707-7965; telephone: (608) 266-9626.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Offices' database at: <http://www.access.gpo.gov/nara>.

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare a Draft Environmental Impact Statement (EIS) on a proposal to provide safety, operational and capacity improvements on an approximate 27 kilometer (17 mile) section of STH 83 between CTH "NN" at the north limits of the Village of Mukwonago and STH 16, Waukesha County.

This notice is supplementary to the notice of intent, which was published in the **Federal Register** on March 26, 2001 at 66 FR 16520. The purpose of the supplemental notice of intent is to extend the project limits about 6 kilometers (4 miles) at the north terminus. The previous north terminus was Interstate Highway 94. The revised north terminus is STH 16.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the addresses provided in the caption **FOR FURTHER INFORMATION CONTACT**.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: November 29, 2001.

Richard C. Madrzak,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 01-30086 Filed 12-4-01; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA-99-5748 and FMCSA-99-5578 (formerly FHWA-99-5748 and FHWA-99-5578)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces the FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 18 individuals.

DATES: This decision is effective November 30, 2001. Comments from interested persons should be submitted by January 4, 2002.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dmses.dot.gov/submit>. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (202) 366-2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366-1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>.

Background

Eighteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR

391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Terry J. Aldridge, Jerry D. Bridges, Michael L. Brown, Roosevelt Bryant, Jr., Duane D. Burger, Ralph E. Eckels, Jerald C. Eyre, Gary R. Gutschow, Richard J. Hanna, James J. Hewitt, Albert E. Malley, Eldon Miles, Craig W. Miller, Rodney M. Mimbs, Walter Moniowczak, Thomas E. Walsh, Kevin P. Weinhold, and Thomas A. Wise. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, the FMCSA has evaluated the 18 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On November 30, 1999, the agency published a notice of final disposition announcing its decision to exempt 33 individuals, including 11 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 66962). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 40404 (July 26, 1999). Three comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 66962). On September 23, 1999, the agency published a notice of final disposition announcing its decision to exempt 32 individuals, including 7 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 51568). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 27027 (May 18, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 51568). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically

examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for an additional 2-year period. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 18 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 63 FR 66226; 64 FR 16517), and each has requested timely renewal of the exemption. These 18 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, the AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by the AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Terry J. Aldridge, Jerry D. Bridges, Michael L. Brown, Roosevelt Bryant, Jr., Duane D. Burger, Ralph E. Eckels, Jerald C. Eyre, Gary R. Gutschow, Richard J. Hanna, James J. Hewitt, Albert E. Malley, Eldon Miles, Craig W. Miller, Rodney M. Mimbs, Walter Moniowczak, Thomas E. Walsh, Kevin P. Weinhold, and Thomas A. Wise, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

The FMCSA has evaluated the qualifications and driving performance of the 18 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, the FMCSA requests that interested parties with information concerning the safety

records of these drivers submit comments by January 4, 2002. All comments will be considered and will be available for examination in the docket room at the above address. The FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 322, 31136 and 31315; and 49 CFR 1.73.

Issued on: November 30, 2001.

Julie Anna Cirillo,

Assistant Administrator.

[FR Doc. 01-30080 Filed 11-30-01; 1:49 pm]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34134]

Jackson County Port Authority Railroad—Operation Exemption— Jackson County Port Authority

Jackson County Port Authority Railroad (JCPARR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate approximately 2.9 miles of rail line owned by the Jackson County Port Authority (JCPA).¹ The lines to be operated include: (1) The Bayou Casotte trackage which extends approximately 1 mile from a connection with the Bayou Casotte Branch of CSX Transportation, Inc. (CSXT) to JCPA's Bayou Casotte Terminals where it serves two public cargo terminals, a distance (including side tracks) of approximately 1.4 miles; and (2) the Pascagoula River trackage which connects with the West Pascagoula Branch of CSXT and extends southward into JCPA's Pascagoula River Terminals where it serves four public cargo terminals and a grain elevator, a distance (including side tracks) of approximately 1.5 miles. JCPARR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier.

The transaction was expected to be consummated on or after November 24, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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.

¹ JCPA is a public agency and political subdivision in the State of Mississippi.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34134, 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 John D. Heffner, 555 Twelfth Street, NW., Suite 950N, Washington, DC 20004.

Board decisions and notices are available on our web site at "WWW.STB.DOT.GOV."

Decided: November 27, 2001.

By the Board, David M. Konschnick,
Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01-29997 Filed 12-4-01; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 29, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 4, 2002, to be assured of consideration.

Departmental Offices/Office of Foreign Exchange Operations/Market Room

OMB Number: 1505-0010.

Form Number: FC-2.

Type of Review: Revision.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants.

Description: Collection of information on Form FC-2 is required by law. Form FC-2 is designed to collect timely information on foreign exchange spot, forward, and futures purchased and sold; net options positions, delta equivalent value long or short; and net reported dealing position long or short.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 22.

Estimated Burden Hours Per Respondent: 4 hours.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 1,056 hours.

OMB Number: 1505-0012.

Form Number: FC-1.

Type of Review: Revision.

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants.

Description: Collection of information on Form FC-1 is required by law. Form FC-1 is designed to collect timely information on foreign exchange spot, forward, and futures purchased and sold; net options positions, delta equivalent value long or short; and net reported dealing position long or short.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 22.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Weekly.

Estimated Total Reporting Burden: 1,144 hours.

OMB Number: 1505-0014.

Form Number: FC-3.

Type of Review: Revision.

Title: Quarterly Consolidated Foreign Currency Report of Major Market Participants.

Description: Collection of information on Form FC-3 is required by law. Form FC-3 is designed to collect timely information on foreign exchange spot, forward, and futures purchased and sold; net options positions, delta equivalent value long or short; and net reported dealing position long or short.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 60.

Estimated Burden Hours Per Respondent: 8 hours.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 1,920 hours.

Clearance Officer: Lois K. Holland, (202) 622-1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01-30104 Filed 12-4-01; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Geriatrics and Gerontology, Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held on December 19–20, 2001, in the Board Room of the Hotel Lombardy located at 2019 Pennsylvania Avenue, NW., Washington, DC. The Committee will meet from 8:30 a.m. until 5 p.m. (EST) on December 19 and from 8:30 a.m. until noon on December 20. On December 19, the topics to be presented/discussed include:

- Site visits to five new Geriatric Research, Education, and Clinical Centers (GRECCs)
- Update on current issues of the Millennium Act
- Geriatrics and Extended Care Initiatives
- Status of Geriatric Fellowship Program

On December 20, the Committee will discuss administrative matters and the general status of the program. The meeting will be open to the public. Individuals who wish to attend the meeting should contact Jacqueline

Holmes, Staff Assistant, Geriatrics and Extended Care Strategic Healthcare Group at (202) 273–8539.

Dated: November 29, 2001.

By Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–30089 Filed 12–4–01; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Prosthetics and Special-Disabilities Programs (Committee) will be held Tuesday, December 11, 2001, at VA Headquarters, Room 742, 810 Vermont Avenue, NW., Washington, DC. The meeting will convene at 8 a.m. and adjourn at 4 p.m. The purpose of the Committee is to advise the Department on its prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The

Committee also advises the Department on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

The Advisory Committee on Prosthetics and Special-Disabilities Programs will receive briefings by the National Program Directors of the Special-Disabilities Programs regarding the status of their activities over the last six months and present any critical issues requiring the Committee's consideration.

The meeting is open to the public. For those wishing to attend, contact Kathy Pessagno, Veterans Health Administration (113), phone (202) 273–8512, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, prior to the meeting.

Dated: November 29, 2001.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–30090 Filed 12–4–01; 8:45 am]

BILLING CODE 8320–01–M



Federal Register

**Wednesday,
December 5, 2001**

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

**Modifications of the Dimensions of the
Grand Canyon National Park Rules Areas
and Free Flight Zone; Final Rule**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 93**

[Docket No. FAA-1999-5926]

RIN 2120-AG74

Modifications of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: On April 4, 2000, the FAA published two final rules regarding commercial air tour operations over Grand Canyon National Park (GCNP). The first rule, Commercial Air Tour Limitation in Grand Canyon National Park Special Flight Rules Area, limited the number of commercial air tour operations that may be flown in the GCNP Special Flight Rules Area (SFRA) on an annual basis. This rule became effective on May 4, 2000. The second rule, Modifications of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones, modified the airspace in the SFRA to accommodate a new route system for commercial air tour operations and to expand the amount of airspace overall protected by flight free zones. This rule initially was scheduled to become effective December 1, 2000. After several delays, the new routes and airspace were adopted for the west end of the GCNP SFRA on April 19, 2001. The routes and airspace on the east end of the GCNP SFRA were stayed several times after adoption of the final rule. The east end routes and airspace are scheduled to be implemented December 1, 2001. This rule extends the implementation of the Airspace Modification Final Rule until February 20, 2003.

DATES: The effective date of 14 CFR 93.305(a) and (b), delayed until December 1, 2001 (66 FR 16582, March 26, 2001), is further delayed until February 20, 2003. This rule was originally published at 61 FR 69330 on December 31, 1996, April 4, 2000 (65 FR 17736).

The amendments to 14 CFR 93.305(a) and (b) originally published April 4, 2000 (65 FR 17736) and most recently delayed until December 1, 2001 (66 FR 16582, March 26, 2001) are further delayed until February 20, 2003.

ADDRESSES: You may view a copy of this final rule, Modification of the Dimensions of the Grand Canyon

National Park Special Flight Rules Area and Flight Free Zones, through the Internet at: <http://dms.dot.gov>, by selecting docket numbers FAA-01-9218. You may also review the public dockets on this regulation in person in the Docket Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Friday holidays. The Docket Office is on the plaza level of the Nassif Building at the Department of Transportation, 400 7th St., SW., Room 401, Washington, DC, 20590.

As an alternative, you may search the **Federal Register's** Internet site at http://www.access.gpo.gov/su_docs for access to this final rule.

You may also request a paper copy of this final rule from the Office of Rulemaking, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC, 20591, or by calling (202) 267-9680.

FOR FURTHER INFORMATION CONTACT: Howard Hesbitt, Flight Standards Service, (AFS-200), or Ken McElroy, Airspace and Rules Division, ATA-400, Federal Aviation Administration, Seventh and Maryland Streets, SW., Washington, DC 20591; Telephone: (202) 493-4981.

SUPPLEMENTARY INFORMATION:**Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, <http://www.gov/avr/arm/sbreffa.htm>. For more information on SBREFA, e-mail us 9-AWA-SBREFA@faa.gov.

Background

On April 4, 2000, the Federal Aviation Administration published two final rules, the Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones (Airspace Modification), and the Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area (Commercial Air Tour Limitation). See 65 FR 17736; 65 FR 17708; April 4, 2000. The FAA also published concurrently a notice of availability of Commercial Routes for the Grand Canyon National Park (Routes Notice).

See 65 FR 17698, April 4, 2000. The Commercial Air Tour Limitations final rule was implemented, effective May 4, 2000. The Airspace Modification final rule and the routes set forth in the Notice of Availability were scheduled to become effective December 1, 2000. The Final Supplemental Environmental Assessment for Special Flight Rules in the Vicinity of Grand Canyon National Park (SEA) was completed on February 22, 2000, and the Finding of No Significant Impact was issued on February 25, 2000.

Following the publication of the final rules, the United States Air Tour Association and seven air tour operators petitioned the United States District Court of Appeals for the District of Columbia to review the rules. See *USATA v. FAA*, et al. (Docket No. 001201). During the course of litigation, the USATA raised new safety concerns regarding the new routes in the east end of the GCNP SFRA. As a result, the FAA first delayed implementation of the routes until December 28, 2000 (November 20, 2000; 65 FR 69848) so that it could evaluate the new issues. During this evaluation, the FAA determined that modifications could be made to the routes to enhance safety. On December 13, 2000, the FAA published a second Notice of Availability seeking comment on proposed changes to routes in the east-end of the GCNP SFRA (65 FR 78071). Subsequently, the FAA delayed the implementation of the routes until April 1, 2001. (66 FR 2001, January 4, 2001).

During the comment period for the second Notice of Availability, additional safety concerns were raised regarding the proposed revisions to the east end routes. Consequently, the FAA decided to implement the modifications to the route structure of the GCNP SFRA in two phases. First, on April 19, 2001, the FAA implemented the routes and airspace in the west-end (defined as all areas of the SFRA west of the Dragon corridor) of the GCNP SFRA that originally were published on April 4, 2000. Also, on April 19, 2001, the SFRA boundary in the eastern part of the GCNP SFRA over the Navajo Nation lands was extended five miles to the east. Second, the route structure on the east-end (Dragon Corridor and all airspace east of that Corridor) in the GCNP SFRA was stayed until December 1, 2001 to enable the FAA and NPS to determine what changes should be made in the east end of GCNP. Accordingly, the routes now flown remain almost exactly as that shown under Special Federal Aviation Regulation (SFAR) 50-2, with only

slight modification to certain entry and exit points.

The FAA is working on proposed changes to the route structure and airspace modification in the east end of GCNP. This process involves printing maps depicting those changes, performing an environmental assessment of the proposed routes, publishing a proposal and notice of availability of the map in the **Federal Register**, and reviewing comments on the proposed changes. Because this process is not complete, it is necessary to gain extend the effective date of the April 2000 final rule airspace modifications. That date now is extended until February 20, 2003. Part of this delay results from the increased workload since the events of September 11, 2001. Additionally, the FAA has determined that any new routes should be implemented in the winter when tour activity is limited and operators are conducting new pilot training. Given all of these constraints, the FAA has found that it is necessary to delay the implementation of the east end airspace until February 20, 2003. In the meantime, the FAA and NPS will continue to move forward on a revised east end route structure.

The FAA notes that the changes to the routes and airspace in the West end of GCNP finalized in the April 2000 rule have been in effect since April 19, 2001. Those changes were implemented to further the goal of substantial restoration of natural quiet in GCNP.

Immediate Effective Date

The FAA finds that good cause exists under 5 U.S.C. 553(d) for this final rule to become final rule upon issuance. The FAA and NPS must propose and receive comments on new air tour routes in the east end of GCNP requiring the modification of the airspace in GCNP. Therefore, the FAA has determined that to address the safety concerns of operators, it is necessary to further delay the implementation date of the airspace changes codified in April 2000. The FAA notes that the delay only affects the east end of the GCNP SFRA; changes to the west end have been in effect since April 19, 2001.

Environmental Review

In March 2001, the FAA completed a written reevaluation (WR) of the February 22, 2000 Final Supplemental Environmental Assessment (FSEA) for Special flight rules in the Vicinity of Grand Canyon National Park (GCNP). The WR examined the potential environmental impacts associated with a phased implementation of the Airspace rule and the Commercial Air

Tour Route Modifications described in the February 2000 FSEA. The phased approach involved implementation of the "preferred" alternative airspace and air tour route structure as described in the February 2000 FSEA for the GCNP SFRA west of Dragon Corridor. Since no changes to the western portion of the GCNP SFRA as described in the FSEA remained valid for the stage-one airspace and routes implementation at the west-end of the GCNP SFRA. The FAA also reviewed the planned implementation of the stage-one airspace, routes, and route modifications on the east-end and determined that they were not significant changes from the plans analyzed under the "no action" alternative in the February 2000 FSEA. Therefore, the FAA determined that the proposed route revisions to the SFAR 50-2 route structure conformed to the "no action" alternative analyzed in the FSEA. The FAA determined that the data and analyses contained in the February 2000 FSEA were still substantially valid and all pertinent conditions and requirements of the prior approval have or would be met in the April 2001 action.

While the delayed implementation of the east-end route and airspace structure lessened the percentage of the GCNP substantially restored to natural quiet, it was only a temporary delay. In addition, given that the majority of the revised routes and airspace for GCNP were implemented during phase one, the phased implementation process resulted in a gain of substantial restoration of natural quiet for GCNP as described in the February 2000 FSEA.

Therefore for the above reasons and pursuant to FAA Order 1050.1D, Paragraph 92, the FAA determined that the contents of the final Supplemental Environmental Assessment and its conclusions issued on February 22, 2000 were still valid. Additionally, the FAA found that the previous Section 106 Determination of No Adverse Effect to Traditional Cultural Properties identified by Native Americans issued for the FSEA was also still valid. Copies of the written reevaluation were placed in the public docket for the April 2001 rulemaking, were circulated to interested parties, and were available for inspection at the same time and location as the April 2001 final rule. The findings of the March 2001 WR remain valid for this final rule extending the April 2001 Airspace Rule.

Economic Analysis

The economic analysis completed for the final rule published April 4, 2000 evaluates the east-end and the west-end

operations separately since these are distinct markets. This action does not affect the April 19, 2001 implementation of the west-end airspace structure, and the economic analysis from the April 4, 2000 final rule remains valid. At this time the FAA is delaying further the implementation of the east-end routes; however, it is not taking a final action. If the agency takes a final action that is different than that published on April 4, 2000, then it may be necessary to complete a revised economic evaluation.

Initial Regulatory Flexibility Determination and Assessment

The Regulatory Flexibility Act (RFA) 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, organization, and government jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule will have only a de minimus cost impact on the certificate holders. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this final rule will not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act (TAA) of 1979 prohibits Federal agencies from engaging in any standard 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 TAA 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 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. In accordance with the above Act and policy, the FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Federalism Implications

This amendment will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

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 the 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. The FAA has determined that this rule will not impose any unfunded mandates.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (Air).

Adoption of Amendments

Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506-46507, 47122, 47508, 47528-47531.

§ 93.305 [Amended]

2. Section 93.305 (a) and (b) published on December 31, 1996 (61 FR 69330), and most recently delayed until December 1, 2001 (see 66 FR 16582, March 26, 2001) are further delayed until February 20, 2003.

3. The amendments to Section 93.305 published on April 4, 2000 (65 FR 17736), and most recently delayed until December 1, 2001 (see 66 FR 16582, March 26, 2001) are further delayed until February 20, 2003.

Issued in Washington, DC on November 29, 2001.

Jane F. Garvey,
Administrator.

[FR Doc. 01-30012 Filed 11-30-01; 3:34 pm]

BILLING CODE 4910-13-M



Federal Register

Wednesday,
December 5, 2001

Part III

Department of Labor

Employment and Training Administration

20 CFR Part 655

**Labor Condition Applications and
Requirements for Employers Using
Nonimmigrants on H-1b Visas;
Implementation of Electronic Filing; Final
Rule**

DEPARTMENT OF LABOR**Employment and Training
Administration****20 CFR Part 655**

[RIN 1205-AB29]

**Labor Condition Applications and
Requirements for Employers Using
Nonimmigrants on H-1B Visas;
Implementation of Electronic Filing**

AGENCIES: Employment and Training Administration and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is amending its regulations governing the filing and processing of labor condition applications (LCAs) for the employment of nonimmigrant aliens on H-1B visas in specialty occupations and as fashion models. The amendments will allow employers to submit LCAs electronically, utilizing web based forms and instructions.

DATES: *Effective Date:* This Final Rule is effective on January 14, 2002.

Compliance Dates: Affected parties do not have to comply with the revised information collection requirements in this rule (i.e., provisions relating to the new Form ETA 9035-E), until the Department publishes in the **Federal Register** a notice approving the revision of the information collection provisions. For further information on collection information, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Denis Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue, NW, Room C-4318, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:**I. What Is the H-1B Nonimmigrant Program?**

On November 29, 1990, the Immigration and Nationality Act (INA) was amended by the Immigration Act of 1990 (IMMACT 90) (Pub. L. 101-649, 104 Stat. 4978) to create the "H-1B visa program" for the temporary employment in the United States (U.S.) of nonimmigrants in "specialty occupations" and as "fashion models of distinguished merit and ability." The H-1B provisions of the INA govern the temporary entry of foreign "professionals" to work in "specialty occupations" in the United States under H-1B visas. 8 U.S.C.

1101(a)(15)(H)(i)(b), 1182(n), and 1184(c). The H-1B category of specialty occupations consists of occupations requiring the theoretical and practical application of a body of highly specialized knowledge and the attainment of a Bachelor's or higher degree in the specific specialty as a minimum for entry into the occupation in the United States. 8 U.S.C. 1184(i)(1). In addition, an H-1B nonimmigrant in a specialty occupation must possess full State licensure to practice in the United States (if required), completion of the required degree, or experience equivalent to the degree and recognition of expertise in the specialty. 8 U.S.C. 1184(i)(2). The category of "fashion model" requires that the nonimmigrant be of distinguished merit and ability. 8 U.S.C. 1101(a)(15)(H)(i)(b).

The H-1B provisions of the INA have been amended several times since 1990. A detailed legislative history of the H-1B nonimmigrant program can be found in the preamble to the Interim Final Rule published on December 20, 2000, to implement changes made to the INA by the American Competitiveness and Workforce Improvement Act of 1998. See 65 FR at 80117.

**II. Why Is the Department
Implementing an Electronic Filing
System?**

The current regulations permit employers to submit labor condition applications (LCAs) by facsimile transmission (FAX) or by mail. Although submission of LCAs by FAX and processing of such applications have generally been more efficient than submission and processing of LCAs by mail, operational problems delayed the processing of some LCAs submitted by FAX for the first several months of its operation. To improve customer service, the Department will, through this Final Rule, provide employers the option to utilize an electronic filing system which will permit employers to fill out their LCAs on a Department of Labor website and submit them electronically to the Department's Employment and Training Administration (ETA). The electronic filing system will be convenient and less burdensome for employers, since, unlike a system based on filing applications by FAX or by mail, the new system will allow the filing of an application without the submission of a "hard copy," which is required for filing of an application by mail or by FAX. Electronic filing will permit more efficient ETA electronic processing of LCAs without the technical and administrative uncertainties inherent in the technology currently available to process applications that are submitted

by FAX. Further, since the scope of the Department's review of LCAs under section 212(n)(1)(D) of the INA is limited to "completeness and obvious inaccuracies," the filing and processing of LCAs is particularly amenable to an electronic filing system. Because the electronic filing system includes guidance to the employers in filling out their LCAs "on line," the LCAs will have fewer incomplete or obviously inaccurate entries and will, therefore, ordinarily be acceptable for immediate electronic certification.

**III. What Changes Are Being Made To
Implement an Electronic Filing System?**

The creation of an electronic filing and certification system requires changes in the current regulations, because the regulations explicitly permit only two types of submission: FAX transmission and hard copy by U.S. Mail. (20 CFR 655.720(a) and (b)). Therefore, in this Final Rule, the Department is amending the regulations at §§ 655.700, 655.705, 655.720, 655.730, 655.731, 655.732, 655.733, 655.734, 655.736, 655.740, 655.750, 655.760, and 655.805, to implement a new labor condition application form (Form ETA 9035E) and a new electronic submission and certification system. The new LCA form is identical in all respects to the existing LCA (Form ETA 9035), except that the new form contains additional "blocks" to be marked by the employer to acknowledge that the submission is being made electronically and that the employer will be bound by the LCA obligations through such submission. The Department has developed a customer-friendly website (www.lca.doleta.gov) which can be accessed by employers to electronically fill out and submit the Form ETA 9035E. The website includes detailed instructions, prompts and checks to help employers fill out the 9035E. This process is designed to help insure that employers enter the H-1B program based on accurate LCA information and with explicit, immediate notice of the obligations.

Additionally, the Department's website provides an option to permit employers that frequently file LCAs to set up secure files within the ETA electronic filing system containing information which is common to any LCA they may wish to file. Under this option, each time an employer files an LCA, the information common to all its LCAs would be entered automatically by the electronic filing system and the employer would only have to enter the data that was specific to the new LCA it wished to file in the instance at hand.

The electronic submission and certification system implemented by this Rule requires that the new LCA form be printed and signed by the employer immediately after ETA provides the electronic certification. The signed form must then be maintained in the employer's files and a copy of the signed form must be maintained in the public access file; another copy of the signed form must be submitted to the Immigration and Naturalization Service (INS) to support the Petition for Nonimmigrant Worker, INS Form I-129. This requirement is functionally equivalent to the current requirement that employers retain the signed original certified LCA in their files, and place a copy of this LCA in the public access file. This Rule also provides additional procedural guidance which clarifies the interrelationship between the Department's regulations and the INS regulations on the matter of the employer's acceptance of its H-1B obligations under the LCA.

Since the Department does not yet have the technology to satisfy the statutes that deal with electronic signatures on Government applications—Government Paperwork Elimination Act (44 U.S.C. 3504 n.) and/or the Electronic Records and Signatures in Global and National Commerce Act (E-SIGN) (15 U.S.C. 7001-7006)—we are not implementing either of these statutes in this Rule. We consider it to be essential that an electronic LCA filing and certification system be made available as soon as possible. In the event that such technology becomes available in the future, the Department will modify the electronic LCA system to comply with these statutes and will provide appropriate notice(s) and instructions to employers. We view it as inadvisable to delay the electronic LCA system while we develop this additional technology.

IV. Why Is a Final Rule Being Published Without Notice and Comment?

The Department is promulgating this Rule in final form. This Rule makes no substantive alteration in the regulations and does not alter the rights of any parties. The Rule makes changes which constitute a "rule of agency organization, procedure, or practice" which may be published in final form pursuant to section 553(b)(A) of the Administrative Procedure Act (5 U.S.C. 553(b)(A)).

V. Executive Order 12866

We have determined that this Rule is not an "economically significant

regulatory action" within the meaning of Executive Order 12866, in that it will not have an economic effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

While the Rule is not economically significant, the Office of Management and Budget reviewed this Rule because of the extensive interest on the part of the regulated community in the matters addressed in this Rule.

VI. Small Business Regulatory Enforcement Fairness Act of 1996

This Rule is not a rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804(3)(C). It is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of parties other than the Department of Labor.

VII. Unfunded Mandates Reform Act of 1995

This Rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

VIII. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this Rule (5 U.S.C. 553(b)), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. pertaining to regulatory flexibility analysis, do not apply to this Final Rule. See 5 U.S.C. 603(a).

IX. Executive Order 13132

This Rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, we have determined that this Rule does not have sufficient federalism implications to warrant the preparation of a summary impact statement.

X. Assessment of Federal Regulations and Policies on Families

This Rule does not affect family well-being.

XI. Paperwork Reduction Act

Summary: Sections 655.700, 655.705, 655.720, 655.730, 655.731, 655.732, 655.733, 655.734, 655.736, 655.740, 655.750, 655.760, and 655.805 have been amended to reflect the option of electronic submission of the Form ETA 9035-E. The amendments parallel the current provisions for submission, recordkeeping and posting requirements for hard copies prepared for submission by mail or by FAX. The new LCA form is the same as the existing LCA (Form ETA 9035), except that the new form contains additional "blocks" to be marked by the employer to acknowledge that the submission is being made electronically and that the employer will be bound by the LCA obligations through such submission. ETA estimates that the time to fill out and submit a Form ETA 9035-E electronically and to comply with recordkeeping and notice requirements under the regulations will be the same as for hard copies of Form ETA 9035 prepared for submission by mail or by FAX. It should be noted, however, that because of certain operational problems with the FAX system, applications submitted by FAX are submitted on average 1.1 times. Such duplication does not occur with respect to applications submitted by mail and the Department does not anticipate duplicate submissions of forms submitted electronically.

Need: The creation of an optional electronic filing and certification system requires changes in the current regulations because the regulations explicitly permit only two types of submission: FAX transmission and hard copy by U.S. mail (20 CFR 655.720(a) and (b)).

Respondents and frequency of response: Employers submit LCAs when they wish to employ an H-1B nonimmigrant worker. ETA estimates, based on its operating experience with the H-1B program, that in the upcoming year employers will file approximately 260,000 LCAs (including duplicate FAX submissions). Specifically, ETA estimates that it will receive 7,000 hard copies submitted by mail, 123,000 hard copies submitted by FAX (which includes 12,300 duplicate submissions), and 130,000 LCAs submitted electronically.

Estimated total annual burden: DOL estimates that the completion of LCAs, complying with recordkeeping requirements and providing a copy to each H-1B nonimmigrant will result in a total burden of 247,700 hours in the upcoming year (7,000 hard copies submitted by mail x 1 hour + 123,000

FAX submissions (which includes 12,300 duplicate submissions) x .90 hours + 130,000 electronic submissions x 1 hour = 247,700 hours, or about 57 minutes per application submitted).

Request for comments: The public is invited to provide comments on the revised information collection requirement so that the Department of Labor may:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimates of the burdens of the collections 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 collections 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.

Written comments should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Department of Labor, Employment and Training Administration, 725 17th Street, NW., Washington, DC 20503. Comments should be received by January 4, 2002.

The revised information collection requirements are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained of the revision to the information collection.

Copies of the information collection request submitted to OMB may be obtained by contacting Denis Gruskin, Senior Specialist, Division of Foreign Labor Certifications, Employment and Training Administration, 200 Constitution Avenue NW., Room N-4318, Washington, DC 20210. Telephone (202) 693-2953 (this is not a toll-free number).

XII. Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at 17.252.

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens,

Employment, Forest and forest products, Health professions, Immigration, Labor, Longshore work, Migrant labor, Penalties, Reporting requirements, Students, Wages.

Accordingly, subparts H and I of part 655 of title 20 of the Code of Federal Regulations are amended as follows:

Subpart H—Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas

1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1182(m) and (n), 1184, 1188, and 1288(c) and (d); 29 U.S.C. 49 et seq.; sec. 3(c)(1), Pub. L. 101-238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 323, Pub. L. 103-206, 107 Stat. 2149; Title IV, Pub. L. 105-277, 112 Stat. 2681; Pub. L. 106-95, 113 Stat. 1312 (8 U.S.C. 1182 note); and 8 CFR 213.2(h)(4)(i).

Section 655.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 et seq.; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 et seq.; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 et seq.

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 et seq. and sec. 3(c)(1), Pub. L. 101-238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 et seq.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(m), and 1184; 29 U.S.C. 49 et seq.; sec 303(a)(8), Pub. L. 102-232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note); and Title IV, Pub. L. 105-277, 112 Stat. 2681.

Subparts J and K issued under 29 U.S.C. 49 et seq.; and sec 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c), 1182 (m) and 1184; and 29 U.S.C. 49 et seq.

2. Section 655.700 is amended by revising the third sentence of paragraph (b)(1) to read as follows:

§ 655.700 What statutory provisions govern the employment of H-1B nonimmigrants and how do employers apply for an H-1B visa?

* * * * *

(b) * * *

(1) * * * The LCA (Form ETA 9035 or ETA 9035E) and cover page (Form ETA 9035CP, containing the full attestation statements that are incorporated by reference in Form ETA 9035 and ETA 9035E) may be obtained from <http://ows.doleta.gov>, from DOL

regional offices, and from the Employment and Training Administration (ETA) national office.

* * * * *

3. Section 655.705 is amended by revising paragraph (c) to read as follows:

§ 655.705 What federal agencies are involved in the H-1B program, and what are the responsibilities of those agencies and of employers?

* * * * *

(c) *Employer's responsibilities.* Each employer seeking an H-1B nonimmigrant in a specialty occupation or as a fashion model of distinguished merit and ability has several responsibilities, as described more fully in this subpart and subpart I of this part, including—

(1) The employer shall submit a completed labor condition application (LCA) on Form ETA 9035 or Form ETA 9035E in the manner prescribed in § 655.720. By completing and submitting the LCA, and in addition by signing the LCA, the employer makes certain representations and agrees to several attestations regarding an employer's responsibilities, including the wages, working conditions, and benefits to be provided to the H-1B nonimmigrants (8 U.S.C. 1182(n)(1)); these attestations are specifically identified and incorporated by reference in the LCA, as well as being set forth in full on Form ETA 9035CP. The LCA contains additional attestations for certain H-1B-dependent employers and employers found to have willfully violated the H-1B program requirements; these attestations impose certain obligations to recruit U.S. workers, to offer positions to U. S. workers who are equally or better qualified than the H-1B nonimmigrant(s), and to avoid the displacement of U.S. workers (either in the employer's workforce, or in the workforce of a second employer with whom the H-1B nonimmigrant(s) is placed, where there are indicia of employment with that second employer (8 U.S.C. 1182(n)(1)(E)-(G)). These additional attestations are specifically identified and incorporated by reference in the LCA, as well as being set forth in full on Form ETA 9035CP. If the LCA is certified by ETA, notice of the certification will be sent to the employer, either by return FAX (where the Form ETA 9035 was submitted by FAX), by hard copy (where the Form ETA 9035 was submitted by U.S. Mail), or by electronic certification (where the Form ETA 9035E was submitted electronically). The employer reaffirms its acceptance of all of the attestation

obligations by submitting the LCA to the Immigration and Naturalization Service in support of the Petition for Nonimmigrant Worker, INS Form I-129, for an H-1B nonimmigrant. See INS regulation 8 CFR 214.2(h)(4)(iii)(B)(2), which specifies that the employer will comply with the terms of the LCA for the duration of the H-1B nonimmigrant's authorized period of stay.

(2) The employer shall maintain the original signed and certified LCA in its files, and shall make a copy of the LCA, as well as necessary supporting documentation (as identified under this subpart), available for public examination in a public access file at the employer's principal place of business in the U.S. or at the place of employment within one working day after the date on which the LCA is filed with ETA.

(3) The employer then may submit a copy of the certified, signed LCA to INS with a completed petition (Form I-129) requesting H-1B classification.

(4) The employer shall not allow the nonimmigrant worker to begin work until INS grants the alien authorization to work in the United States for that employer or, in the case of a nonimmigrant previously afforded H-1B status who is undertaking employment with a new H-1B employer, until the new employer files a nonfrivolous petition (Form I-129) in accordance with INS requirements.

(5) The employer shall develop sufficient documentation to meet its burden of proof with respect to the validity of the statements made in its LCA and the accuracy of information provided, in the event that such statement or information is challenged. The employer shall also maintain such documentation at its principal place of business in the U.S. and shall make such documentation available to DOL for inspection and copying upon request.

4. Section 655.720 is revised to read as follows:

§ 655.720 Where are labor condition applications to be filed and processed?

(a) *Facsimile transmission (FAX)*. If the employer submits the LCA (Form ETA 9035) by FAX, the transmission shall be made to 1-800-397-0478 (regardless of the intended place of employment for the H-1B nonimmigrant(s)). (Note: the employer submitting an LCA via FAX shall not use the FAX number assigned to an ETA regional office, but shall use only the 1-800-397-0478 number designated for this purpose.) The cover pages to Form ETA 9035 (i.e., Form ETA 9035CP)

should not be FAXed with the Form ETA 9035.

(b) *U.S. Mail*. If the employer submits the LCA (Form ETA 9035) by U.S. Mail, the LCA shall be sent to the ETA service center at the following address: ETA Application Processing Center, P.O. Box 13640, Philadelphia PA 19101 (regardless of the intended place of employment for the H-1B nonimmigrant(s)).

(c) *Electronic submission*. If the employer submits the LCA (Form ETA 9035E) by electronic transmission, the submission shall be made on the Department of Labor WEB page at www.lca.doleta.gov (regardless of the intended place of employment for the H-1B nonimmigrant(s)). The employer shall follow the instructions in the electronic submission process, which include the requirement that the employer shall print out and sign the LCA immediately after ETA's certification, shall maintain the "signed original" in its files, shall place a copy of the "signed original" in the public access file, and shall submit a copy of the "signed original" to the Immigration and Naturalization Service in support of the Form I-129 petition for the H-1B nonimmigrant. In the event that ETA implements the Government Paperwork Elimination Act (44 U.S.C.A. 3504 n.) and/or the Electronic Records and Signatures in Global and National Commerce Act (E-SIGN) (15 U.S.C.7001-7006) for the submission and certification of the ETA 9035E, instructions will be provided (by public notice(s) and by instructions on the Department's WEB page) to employers as to how the requirements of these statutes will be met in the ETA-9035E procedures.

(d) All matters other than the processing of LCAs (e.g., prevailing wage challenges by employers) that are the responsibility of ETA are within the jurisdiction of the Regional Certifying Officers in the ETA regional offices identified in § 655.721.

5. Section 655.730 is amended by revising paragraphs (b) and paragraph (c)(1) introductory text to read as follows:

§ 655.730 What is the process for filing a labor condition application?

* * * * *

(b) *Where and when is an LCA to be submitted?* An LCA shall be submitted by the employer to ETA in accordance with the procedure prescribed in § 655.720 no earlier than six months before the beginning date of the period of intended employment shown on the LCA. It is the employer's responsibility to ensure that a complete and accurate

LCA is received by ETA. Incomplete or obviously inaccurate LCAs will not be certified by ETA. ETA will process all LCAs sequentially upon receipt regardless of the method used by the employer to submit the LCA (i.e., FAX, or U.S. Mail, or electronic submission, as prescribed in § 655.720) and will make a determination to certify or not certify the LCA within seven working days of the date the LCA is received by ETA.

(c) *What is to be submitted?* Form ETA 9035 or ETA 9035E.

(1) *General*. One completed and dated Form ETA 9035 or ETA 9035E shall be submitted to ETA by the employer (or by the employer's authorized agent or representative) in accordance with the procedure prescribed in § 655.720. In submitting the Form ETA 9035 or the ETA 9035E, the employer, or its authorized agent or representative on behalf of the employer, attests that the statements in the Form are true and promises to comply with the attestation requirements set forth in full in the ETA 9035-CP. The Form ETA 9035 must be used if the employer uses FAX or U.S. Mail for submission; this Form must bear the original signature of the employer (or that of the employer's authorized agent or representative) when it is submitted to ETA. The Form ETA 9035E must be used for electronic submission; this Form must be printed out and signed by the employer immediately upon certification by ETA. The signed original of the Form ETA 9035 or the Form ETA 9035E must be maintained by the employer in its files, as set forth at § 655.720(c) and § 655.760(a)(1), if it is submitted by FAX or by electronic submission to ETA. A copy of the signed, certified Form ETA 9035 or ETA 9035E must be made available in the public access file, as set forth at § 655.760(a)(1). The signature of the employer or its authorized agent or representative on Form ETA 9035 or Form ETA 9035E constitutes the employer's representation of the truth of the statements on the Form and acknowledges the employer's agreement to the labor condition statements (attestations), which are specifically identified in Forms ETA 9035 and ETA 9035E, as well as set forth in the cover pages (Form ETA 9035CP) and incorporated by reference in Forms ETA 9035 and ETA 9035E. Another copy of the signed, certified Form ETA 9035 or ETA 9035E must be submitted to the Immigration and Naturalization Service in support of the Form I-129 petition, thereby reaffirming the employer's acceptance of all of the attestation obligations in accordance with 8 CFR 214.2(h)(4)(iii)(B)(2). The labor

condition statements (attestations) are described in detail in §§ 655.731 through 655.735, and 655.736 through 655.739 (if applicable). Copies of Form ETA 9035 and cover pages Form ETA 9035CP are available from ETA regional offices and on the ETA website at http://ows.doleta.gov. Form ETA 9035E is found on the DOL WEB page at www.lca.doleta.gov, where the electronic submission is made. Each Form ETA 9035 and ETA 9035E shall identify the occupational classification for which the LCA is being submitted and shall state:

* * * * *

§ 655.731 [Amended]

6. Section 655.731 is amended in the introductory text, the first sentence of paragraph (a), and the first sentence of paragraph (b)(1), by inserting the phrase "or 9035E" after the phrase "Form ETA 9035".

§ 655.732 [Amended]

7. Section 655.732 is amended in the introductory text by inserting the phrase "or 9035E" after the phrase "Form ETA 9035".

§ 655.733 [Amended]

8. Section 655.733 is amended in the introductory text by inserting the phrase "or 9035E" after the phrase "Form ETA 9035".

9. Section 655.734 is amended in the introductory text by revising the phrase "Form ETA 9035" to read "Form ETA 9035 or 9035 E" and by revising (a)(3) and the first sentence of paragraph (b) as follows:

§ 655.734 What is the fourth LCA requirement, regarding notice?

An employer seeking to employ H-1B nonimmigrants shall state on Form ETA 9035 or 9035E that the employer has provided notice of the filing * * *.

(a) * * *

(3) The employer shall, no later than the date the H-1B nonimmigrant reports to work at the place of employment, provide the H-1B nonimmigrant with a copy of the LCA (Form ETA 9035, or Form ETA 9035E) certified by ETA and signed by the employer (or by the employer's authorized agent or representative). Upon request, the employer shall provide the H-1B nonimmigrant with a copy of the cover pages, Form ETA 9035CP.

(b) * * * The employer shall develop and maintain documentation sufficient to meet its burden of proving the validity of the statement referenced in paragraph (a) of this section and attested to on Form ETA 9035 or 9035E. * * *

* * * * *

10. Section 655.736 is amended in the first sentence of paragraph (e) by inserting the phrase "or 9035E" after the phrase "Form ETA-9035".

11. Section 655.740 is amended by revising the first sentence of paragraph (a)(1), and paragraphs (a)(2)(i), and (a)(2)(ii) as follows:

§ 655.740 What actions are taken on labor condition applications?

(a) * * *

(1) *Certification on labor condition application.* Where all items on Form ETA 9035 or Form ETA 9035E have been completed, the form is not obviously inaccurate, and in the case of Form ETA 9035, it contains the signature of the employer or its authorized agent or representative, the regional Certifying Officer shall certify the labor condition application unless it falls within one of the categories set forth in paragraph (a)(2) of this section.

* * *

(2) * * *

(i) *When the Form ETA 9035 or 9035E is not properly completed.* Examples of a Form ETA 9035 or 9035E which is not properly completed include instances where the employer has failed to check all the necessary boxes; or where the employer has failed to state the occupational classification, number of nonimmigrants sought, wage rate, period of intended employment, place of intended employment, or prevailing wage and its source; or, in the case of Form ETA 9035, where the application does not contain the signature of the employer or the employer's authorized representative.

(ii) *When the Form ETA 9035 or ETA 9035E contains obvious inaccuracies.* An obvious inaccuracy will be found if the employer files an application in error—e.g., where the Administrator, Wage and Hour Division, after notice and opportunity for a hearing pursuant to subpart I of this part, has notified ETA in writing that the employer has been disqualified from employing H-1B nonimmigrants under section 212(n)(2) of the INA. Examples of other obvious inaccuracies include stating a wage rate below the FLSA minimum wage, submitting an LCA earlier than six months before the beginning date of the period of intended employment, identifying multiple occupations on a single LCA, identifying a wage which is below the prevailing wage listed on the LCA, or identifying a wage range where the bottom of such wage range is lower than the prevailing wage listed on the LCA.

* * * * *

12. Section 655.750 is amended by revising paragraph (a) to read as follows:

§ 655.750 What is the validity period of the labor condition application?

(a) *Validity of certified labor condition applications.* A labor condition application which has been certified pursuant to the provisions of § 655.740 shall be valid for the period of employment indicated on Form ETA 9035 or ETA 9035E by the authorized DOL official. The validity period of a labor condition application shall not begin before the application is certified (whether through the FAX submission or U.S. Mail submission of the Form ETA 9035, or the electronic submission of the Form ETA 9035E) or exceed three years. However, in the event employment pursuant to section 214(m) of the INA commences prior to certification of the labor condition application, the attestation requirements of the subsequently certified application shall apply back to the first date of employment. Where the labor condition application contains multiple periods of intended employment, the validity period shall extend to the latest date indicated or three years, whichever comes first.

* * * * *

13. Section 655.760 is amended by revising paragraph (a)(1) to read as follows:

§ 655.760 What records are to be made available to the public, and what records are to be retained?

(a) * * *

(1) A copy of the certified labor condition application (Form ETA 9035 or Form ETA 9035E) and cover pages (Form ETA 9035CP). If the Form ETA 9035 is submitted by facsimile transmission, the application containing the original signature shall be maintained by the employer in its files. If the Form ETA 9035E is submitted electronically, a printout of the certified application shall be signed by the employer and maintained in its files.

* * * * *

14. Section 655.805 is amended by revising paragraph (d) to read as follows:

§ 655.805 What violations may the Administrator investigate?

* * * * *

(d) The provisions of this part become applicable upon the date that the employer's LCA is certified pursuant to §§ 655.740 and 655.750, or upon the date employment commences pursuant to section 214(m) of the INA, whichever is earlier. The employer's submission and signature on the LCA (whether Form ETA 9035 or Form ETA 9035E) each constitutes the employer's representation that the statements on

the LCA are accurate and its acknowledgment and acceptance of the obligations of the program. The employer's acceptance of these obligations is re-affirmed by the employer's submission of the petition (Form I-129) to the INS, supported by the LCA. See 8 CFR 214.2(h)(4)(iii)(B)(2), which specifies that the employer will comply with the

terms of the LCA for the duration of the H-1B nonimmigrant's authorized period of stay. If the period of employment specified in the LCA expires or the employer withdraws the application in accordance with § 655.750(b), the provisions of this part will no longer apply with respect to such application, except as provided in § 655.750(b)(3) and (4).

Signed at Washington, DC, this 29th day of November, 2001.

Emily Stover DeRocco,
Assistant Secretary for Employment and Training.

Annabelle T. Lockhart,
Acting Administrator Wage and Hour Division.

[FR Doc. 01-30054 Filed 12-4-01; 8:45 am]

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Federal Register

**Wednesday,
December 5, 2001**

Part IV

Department of the Interior

**Office of the Secretary
Bureau of Indian Affairs
Office of Special Trustee for American
Indians
Office of Indian Trust Transition**

**Tribal Consultation on Indian Trust Asset
Management; Notice**

DEPARTMENT OF THE INTERIOR**Office of the Secretary****Bureau of Indian Affairs****Office of Special Trustee for American Indians****Office of Indian Trust Transition****Tribal Consultation on Indian Trust Asset Management**

AGENCIES: Office of the Secretary, Bureau of Indian Affairs, Office of the Special Trustee for American Indians, Office of Indian Trust Transition, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: The Office of the Secretary, along with the Bureau of Indian Affairs, the Office of Special Trustee for American Indians, and Office of Indian Trust Transition will conduct meetings on Indian trust asset management. The purpose is to discuss a proposed reorganization of the Department's trust responsibility functions to improve the management of Indian trust assets. Any Indian tribe, band, nation or individual is encouraged to attend the meeting and to submit written comments.

DATES: The second consultation meeting will be held in Minneapolis, Minnesota on December 20, 2002 at 9 a.m. The first consultation meeting is scheduled to be held in Albuquerque, New Mexico on December 13, 2001. The dates times and locations of additional meetings will be announced shortly. All written comments must be received by February 15, 2002.

ADDRESSES: The location of the Albuquerque consultation has changed. The Albuquerque meeting will be held on December 13, 2002 at the Hyatt Regency, 330 Tijeras Street NW, Albuquerque, New Mexico. The

Minneapolis consultation will be held at the Doubletree Hotel, 7901 24th Avenue South, Minneapolis, Minnesota. Send written comments to the Office of the Secretary, Attn: Office of the executive Secretariat, 1849 C Street NW., MS7229-MIB, Washington, DC 20240. Send written comments by electronic mail to www.doi.gov/oait.

FOR FURTHER INFORMATION CONTACT:

Wayne R. Smith, Deputy Assistant Secretary Indian Affairs, 1849 C Street NW., MS4140-MIB, Washington, DC 20240, (202) 208-7163, Fax (202) 208-5320.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to involve affected and interested parties in the process of organizing the Department's trust asset management responsibility functions. The Department has determined that there is a need for dramatic change in the management of Indian trust assets. This need has been made apparent in several ways. An independent consultant has analyzed important components of the Department's trust reform activities and made several recommendations, including the recommendation that the Department consolidate trust functions under a single entity. Concerns have also been raised in the *Cobell v. Norton* case, which is currently pending in the Federal District Court for the District of Columbia. Internal review has also supported reorganization. Additionally, a recent report commissioned by the Department of the Interior has supported reorganization. This report, developed by the EDS Corporation, should be available online at www.doi.gov by December 10, 2002. A new office in the Department, the Office of Indian Trust Transition, has been created to plan and support reorganization. While preliminary actions have been taken by the Department, the plan is still in the early stages of development. The meeting is

the first in a series of public meetings. Future meetings have been tentatively scheduled in Oklahoma City, OK on January 3, 2002; Rapid City, SD on January 10, 2002; Palm Springs, CA on January 17, 2002; Anchorage, AK on January 23, 2002; and Washington, DC, on February 1, 2002. The dates and locations of these meetings will be announced in a future notice.

Written comments, including names, street addresses, and other contact information of persons submitting comments, will be available for public review at the address stated in the **ADDRESSES** section. Interested persons may examine the written comments during regular business hours (7:45 a.m. to 4:15 p.m. EST), Monday through Friday, except Federal holidays. Individuals who submit comments may request confidentiality. If you wish us to withhold your name, street address, and other contact information (such as fax or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor your request to the extent allowable by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

This meeting supports administrative policy on tribal consultation by encouraging maximum direct participation of representatives of tribal governments, tribal organizations, and other interested persons in important processes.

Dated: December 3, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01-30327 Filed 12-4-01; 10:09 am]

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Federal Register

Vol. 66, No. 234

Wednesday, December 5, 2001

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139-62906..... 3
62907-63148..... 4
63149-63306..... 5

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations

7507.....62907

7508.....62909

7509.....62911

7510.....63149

5 CFR

6001.....60139

7 CFR

301.....63151

Proposed Rules:

352.....63005

9 CFR

94.....62913

12 CFR

5.....62914

Proposed Rules:

Ch. IX.....63008

14 CFR

39.....60140, 60143, 60144,
60145, 62915, 63154, 63157,
63159

93.....63294

Proposed Rules:

39.....63009, 63010

71.....60162

18 CFR

381.....63162

20CFR

655.....63298

21 CFR

510.....63163, 63164

520.....63165, 63166

524.....63164

556.....62916

558.....62916

26 CFR

Proposed Rules:

1.....63203

30 CFR

256.....60147

944.....62917

33 CFR

117.....62935, 62936, 62938,

62939, 62940

165.....60151, 62940

37 CFR

201.....62942

34 CFR

Proposed Rules:

Ch. VI.....63203

38 CFR

20.....60152

40 CFR

70.....62945, 62946, 62949,

62951, 62954, 62961, 62967,

62969, 63166, 63168, 63170,

63175, 63180, 63184, 63188

180.....63192

261.....60153, 62973

Proposed Rules:

52.....63204

80.....60153

42 CFR

411.....60154

1001.....62980

44 CFR

Proposed Rules:

61.....60176

47 CFR

1.....62992

73.....60156, 60157, 63199

76.....62992

Proposed Rules:

73.....63209

49 CFR

571.....60157

Proposed Rules:

107.....63096

171.....63096

172.....63096

173.....63096

177.....63096

178.....63096

180.....63096

50 CFR

17.....62993

600.....63199

622.....60161

635.....63003

648.....63003

660.....63199

Proposed Rules:

648.....63013

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 5, 2001**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Plant-related quarantine, domestic:
Karnal bunt; published 12-5-01

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste:
Corrective Action Management Units; waste management standards during cleanup; published 11-20-01

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration**

Animal drugs, feeds, and related products:
Carprofen; published 12-5-01
Ivermectin pour-on; published 12-5-01
Sponsor name and address changes—
Merial Ltd.; published 12-5-01

COMMENTS DUE NEXT WEEK**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Plant pest regulations; comments due by 12-10-01; published 10-9-01 [FR 01-25229]

AGRICULTURE DEPARTMENT**Animal and Plant Health Inspection Service**

Plant Protection and Quarantine Treatment Manual; incorporation by reference:
Limes; hot water treatment; comments due by 12-10-01; published 11-8-01 [FR 01-28065]

COMMERCE DEPARTMENT National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—
King and tanner crab; comments due by 12-10-01; published 11-30-01 [FR 01-29772]

Magnuson-Stevens Act provisions—
Domestic fisheries; exempted fishing permit applications; comments due by 12-14-01; published 11-29-01 [FR 01-29640]

Domestic fisheries; exempted fishing permit applications; comments due by 12-14-01; published 11-29-01 [FR 01-29641]

International fisheries regulations:
Fraser River sockeye and pink salmon; inseason orders; comments due by 12-12-01; published 11-27-01 [FR 01-29495]

Marine mammals:
Atlantic Large Whale Take Reduction Plan; comments due by 12-13-01; published 11-28-01 [FR 01-29601]

CONSUMER PRODUCT SAFETY COMMISSION

Flammable Fabrics Act:
Mattresses/bedding; open flame ignition; flammability standard; comments due by 12-10-01; published 10-11-01 [FR 01-25442]

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Testimony by employees and production of official records in legal proceedings; comments due by 12-14-01; published 11-14-01 [FR 01-28543]

EDUCATION DEPARTMENT

Postsecondary education:
Higher Education Act Title IV program issues; negotiated rulemaking committees; intent to establish; comments due by 12-14-01; published 12-5-01 [FR 01-30260]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
Wisconsin; comments due by 12-10-01; published 11-8-01 [FR 01-27829]

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste management system:

RCRA hazardous waste management facilities; standardized permit, corrective action, and financial responsibility; comments due by 12-11-01; published 10-12-01 [FR 01-24204]

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Sethoxydim; comments due by 12-10-01; published 10-10-01 [FR 01-25021]

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 12-10-01; published 11-8-01 [FR 01-27831]

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 12-10-01; published 11-8-01 [FR 01-27832]

Water programs:
Pollutants analysis test procedures; guidelines—
Mercury; measurement method; comments due by 12-10-01; published 10-9-01 [FR 01-24886]

Water supply:
Underground injection control program—
Texas; Class I, III, IV, and V injection wells; comments due by 12-10-01; published 11-8-01 [FR 01-27835]
Texas; Class III brine mining injection wells; comments due by 12-10-01; published 11-8-01 [FR 01-27836]

FEDERAL COMMUNICATIONS COMMISSION

Digital television stations; table of assignments:
Mississippi; comments due by 12-14-01; published 10-26-01 [FR 01-26943]
Practice and procedure:
Satellite Digital Audio Radio Service; terrestrial repeater networks authorization; comments due by 12-14-01; published 11-23-01 [FR 01-29328]

Radio stations; table of assignments:
Florida; comments due by 12-10-01; published 11-9-01 [FR 01-28205]
Missouri; comments due by 12-10-01; published 10-31-01 [FR 01-27348]
Texas; comments due by 12-10-01; published 10-31-01 [FR 01-27347]

FEDERAL COMMUNICATIONS COMMISSION

Television stations; table of assignments:
Florida; comments due by 12-13-01; published 11-5-01 [FR 01-27639]

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration**

Animal drugs, feeds, and related products:
Imported food products of animal origin; drug residue tolerances; comments due by 12-10-01; published 8-10-01 [FR 01-20161]

HEALTH AND HUMAN SERVICES DEPARTMENT

Grants:
Substance Abuse and Mental Health Service Administration; mental health and substance abuse emergency response criteria; comments due by 12-10-01; published 10-11-01 [FR 01-25451]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT**Federal Housing Enterprise Oversight Office**

Practice and procedure:
Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac)—
Corporate governance; comments due by 12-13-01; published 11-9-01 [FR 01-28214]

INTERIOR DEPARTMENT Fish and Wildlife Service

Migratory bird hunting:
Light goose populations; harvest management; comments due by 12-11-01; published 10-12-01 [FR 01-25612]
Correction; comments due by 12-14-01; published 11-7-01 [FR 01-27940]

JUSTICE DEPARTMENT Drug Enforcement Administration

Schedules of controlled substances:

Tetrahydrocannabinols; placement into Schedule I
Clarification; comments due by 12-10-01; published 10-9-01 [FR 01-25023]

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Foreign language alien broadcasters; special fourth preference immigrant visas; comments due by 12-10-01; published 10-11-01 [FR 01-25478]

LABOR DEPARTMENT

Employment and Training Administration

Disaster unemployment assistance program; eligibility clarification due to September 11 terrorist attacks; comments due by 12-13-01; published 11-13-01 [FR 01-28412]

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list; comments due by 12-14-01; published 11-14-01 [FR 01-28511]

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list; comments due by 12-14-01; published 11-14-01 [FR 01-28512]

SMALL BUSINESS ADMINISTRATION

Business loans:

Loan guaranty and amounts, minimum guaranteed dollar amount of 7(a) loans, financing percentages, etc.; comments due by 12-14-01; published 11-14-01 [FR 01-28371]

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

Pennsylvania; comments due by 12-10-01; published 10-10-01 [FR 01-25425]

Vessel documentation:

Coastwise trade vessels; foreign ownership; "sold foreign" interpretation;

comments due by 12-11-01; published 9-12-01 [FR 01-22815]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 12-14-01; published 11-19-01 [FR 01-28794]

Bell; comments due by 12-11-01; published 10-12-01 [FR 01-25695]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bell; comments due by 12-14-01; published 10-15-01 [FR 01-25692]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 12-10-01; published 10-24-01 [FR 01-26713]

General Electric Co.; comments due by 12-10-01; published 10-10-01 [FR 01-25400]

Pilatus Britten-Norman Ltd.; comments due by 12-10-01; published 11-7-01 [FR 01-27653]

Sikorsky; comments due by 12-11-01; published 10-12-01 [FR 01-25696]

SOCATA-Groupe AEROSPATIALE; comments due by 12-12-01; published 11-14-01 [FR 01-28420]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Side impact protection and fuel system integrity—

Radial tires instead of bias ply tires used on moving barriers; comments due by 12-10-01; published 10-10-01 [FR 01-25428]

Transportation Recall

Enhancement, Accountability, and Documentation (TREAD) Act; implementation:

Foreign safety recalls and campaigns related to potential defects; information reporting; comments due by 12-10-

01; published 10-11-01 [FR 01-25429]

TREASURY DEPARTMENT

Thrift Supervision Office

Savings and loan holding companies:

Authority to engage in financial activities; comments due by 12-10-01; published 11-8-01 [FR 01-27889]

VETERANS AFFAIRS DEPARTMENT

Loan guaranty:

Prepurchase counseling requirements; comments due by 12-10-01; published 10-11-01 [FR 01-25459]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg/plawcurr.html>.

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H.R. 768/P.L. 107-72

Need-Based Educational Aid Act of 2001 (Nov. 20, 2001; 115 Stat. 648)

H.R. 2620/P.L. 107-73

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Nov. 26, 2001; 115 Stat. 651)

H.R. 1042/P.L. 107-74

To prevent the elimination of certain reports. (Nov. 28, 2001; 115 Stat. 701)

H.R. 1552/P.L. 107-75

Internet Tax Nondiscrimination Act (Nov. 28, 2001; 115 Stat. 703)

H.R. 2330/P.L. 107-76

Agriculture, Rural Development, Food and Drug

Administration, and Related Agencies Appropriations Act, 2002 (Nov. 28, 2001; 115 Stat. 704)

H.R. 2500/P.L. 107-77

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Nov. 28, 2001; 115 Stat. 748)

H.R. 2924/P.L. 107-78

To provide authority to the Federal Power Marketing Administration to reduce vandalism and destruction of property, and for other purposes. (Nov. 28, 2001; 115 Stat. 808)

Last List November 23, 2001

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Contents

Federal Register

Vol. 66, No. 233

Tuesday, December 4, 2001

Editorial Note: In the **Federal Register** of December 4, 2001, all the page numbers were inadvertently omitted from that issue's table of contents. A corrected table of contents for the December 4, 2001, issue follows:

Agriculture Department

See Animal and Plant Health Inspection Service
See Grain Inspection, Packers and Stockyards Administration

NOTICES

Senior Executive Service:
Performance Review Boards; membership, 63014

Animal and Plant Health Inspection Service

RULES

Exportation and importation of animals and animal products:
Bovine spongiform encephalopathy; disease status change—
Czech Republic, 62913–62914

PROPOSED RULES

Plant quarantine safeguard regulations:
Untreated oranges, tangerines, and grapefruit from Mexico transiting U.S. to foreign countries, 63004–63007

NOTICES

Agency information collection activities:
Proposed collection; comment request, 63014–63015

Army Department

NOTICES

Privacy Act:
Systems of records, 63046–63050

Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention

NOTICES

Agency information collection activities:
Submission for OMB review; comment request; correction, 63061
Meetings:
Fetal Alcohol Syndrome and Fetal Alcohol Effect National Task Force, 63061
National Center for Infectious Diseases—
Scientific Counselors Board, 63061–63062
Smoking and Health Interagency Committee, 63062

Children and Families Administration

NOTICES

Agency information collection activities:
Submission for OMB review; comment request, 63062
Grants and cooperative agreements; availability, etc.:
Family Violence Prevention and Services Program, 63127–63147

Coast Guard

RULES

Drawbridge operations:
Connecticut, 62940

Maine, 62938–62939
Missouri River, MO, IA, KS, and NE, 62936–62938
New Jersey, 62939–62940
New York, 62935–62936
Ports and waterways safety:
Crystal River, FL; security zones, 62940–62942

Commerce Department

See International Trade Administration
See National Oceanic and Atmospheric Administration

NOTICES

Senior Executive Service:
Performance Review Board; membership, 63017–63018

Committee for the Implementation of Textile Agreements

NOTICES

Cotton, wool, and man-made textiles:
Indonesia, 63025–63027
Jamaica, 63027–63028
Macau, 63028–63029
Macedonia, 63029–63030
Malaysia, 63030–63031
Philippines, 63031–63033
Romania, 63033–63034
Singapore, 63034–63035
Sri Lanka, 63035–63036
Thailand, 63036–63037
Turkey, 63037–63038
United Arab Emirates, 63038–63040
Uruguay, 63040

Comptroller of the Currency

RULES

Corporate activities:
Federal branches and agencies; operating subsidiaries
Correction, 62914

Copyright Office, Library of Congress

RULES

Copyright office and procedures:
Materials delayed due to disruption or suspension of postal or other transportation or communications services, 62942–62945

Defense Department

See Army Department

NOTICES

Courts-Martial Manual; amendments, 63040–63046

Education Department

NOTICES

Agency information collection activities:
Proposed collection; comment request, 63050–63051
Grants and cooperative agreements; availability, etc.:
Special education and rehabilitative services—
American Indians with disabilities; vocational rehabilitation service projects, 63051–63052

Energy Department

See Federal Energy Regulatory Commission

Environmental Protection Agency**RULES**

Air pollution control:

- State operating permits programs—
 - District of Columbia, 62954–62960
 - Hawaii, 62945–62946
 - Illinois, 62946–62949
 - Indiana, 62969–62972
 - Michigan, 62949–62951
 - Minnesota, 62967–62969
 - Virginia, 62961–62967
 - Wisconsin, 62951–62954

Hazardous waste:

- Identification and listing—
- Exclusions, 62973–62979

Executive Office of the President

See Presidential Documents

See Trade Representative, Office of United States

Federal Aviation Administration**RULES**

Airworthiness directives:

- Rolls-Royce Corp., 62915–62916

PROPOSED RULES

Airworthiness directives:

- CFE Co., 63008–63009
- Rolls-Royce plc, 63009–63012

Federal Communications Commission**RULES**

Common carrier services:

- Commercial mobile radio services—
 - Wireless enhanced 911 service conditions; public safety answering point clarification; Richardson, TX; correction, 63093

Practice and procedure:

- Interim filing procedures; implementation, 62991–62993

Federal Energy Regulatory Commission**NOTICES**

Electric rate and corporate regulation filings:

- CP&L Holdings, Inc., et al., 63053–63056
- Entergy Nuclear Vermont Yankee, LLC, et al., 63056–63057

Environmental statements; availability, etc.:

- John C. Jones Project, Waldo County, ME; facilitators improving fish habitat, 63057–63058

Hydroelectric applications, 63058–63059

Applications, hearings, determinations, etc.:

- California Independent System Operator Corp., 63052
- LG&E Power, Inc., et al., 63052
- Total Peaking Services, L.L.C., 63053
- Transok, LLC, 63053

Federal Housing Finance Board**PROPOSED RULES**

Federal home loan bank system:

- Multiple Federal home loan bank memberships, 63007

Federal Reserve System**NOTICES**

Banks and bank holding companies:

- Change in bank control, 63059
- Formations, acquisitions, and mergers, 63059
- Permissible nonbanking activities, 63059

Meetings; Sunshine Act, 63059–63060

Fish and Wildlife Service**RULES**

Endangered and threatened species:

- Mississippi gopher frog, 62993–63002

NOTICES

Endangered and threatened species permit applications, 63065

Environmental statements; notice of intent:

- Coyote Springs Investments Multiple Species Habitat Conservation Plan, NV, 63065–63066
- Leelanau County, MI; land exchange on South Fox Island, 63066

Food and Drug Administration**RULES**

Animal drugs, feeds, and related products:

- Diclazuril, 62916–62917

General Services Administration**NOTICES**

Agency information collection activities:

- Submission for OMB review; comment request, 63060–63061

Travel and transportation; Standard Tender of Service,

63061

Grain Inspection, Packers and Stockyards Administration**NOTICES**

Agency designation actions:

- Various States, 63015–63017

Health and Human Services Department

See Centers for Disease Control and Prevention

See Children and Families Administration

See Food and Drug Administration

See Inspector General Office, Health and Human Services Department

See National Institutes of Health

Health Care Financing Administration

See Inspector General Office, Health and Human Services Department

Immigration and Naturalization Service**NOTICES**

Agency information collection activities:

- Submission for OMB review; comment request, 63066–63067

Inspector General Office, Health and Human Services Department**RULES**

Medicare and State health care programs; fraud and abuse:

- Ambulance replenishing safe harbor under anti-kickback statute, 62979–62991

Interior Department

See Fish and Wildlife Service

See Surface Mining Reclamation and Enforcement Office

International Trade Administration**NOTICES**

Antidumping:

- Cased pencils from—
 - China, 63018
- Industrial nitrocellulose from—
 - France, 63018

Overseas trade missions:

2002 trade missions—

Assistant Secretarial Business Development Mission to Botswana and South Africa et al., 63019

Justice Department*See* Immigration and Naturalization Service**Labor Department***See* Occupational Safety and Health Administration**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 63067–63069

Library of Congress*See* Copyright Office, Library of Congress**Maritime Administration****NOTICES**

Agency information collection activities:

Proposed collection; comment request, 63089

National Aeronautics and Space Administration**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 63073

National Foundation on the Arts and the Humanities**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 63073–63074

National Highway Traffic Safety Administration**NOTICES**

Motor vehicle safety standards; exemption petitions, etc.:

Cooper Tire & Rubber Co., 63090

Mazda Motors Corp., 63091

National Institutes of Health**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 63062–63063

Meetings:

National Institute of Nursing Research, 63063–63064

National Library of Medicine, 63064

Patent licenses; non-exclusive, exclusive, or partially exclusive:

AriaVax, Inc., 63064–63065

National Oceanic and Atmospheric Administration**RULES**

Fishery conservation and management:

Atlantic highly migratory species—

Atlantic bluefin tuna, 63002

Northeastern United States fisheries—

Atlantic bluefish, 63002–63003

PROPOSED RULES

Fishery conservation and management:

Northeastern United States fisheries—

New England Fishery Management Council; meetings, 63012–63013

NOTICES

Grants and cooperative agreements; availability, etc.:

Coastal Ocean Program, 63019–63025

National Transportation Safety Board**NOTICES**

Meetings; Sunshine Act, 63074

Nuclear Regulatory Commission**NOTICES**

Environmental statements; availability, etc.:

United States Enrichment Corp.—

Portsmouth Gaseous Diffusion Plant, 63077–63078

Meetings; Sunshine Act, 63078

Regulatory guides; issuance, availability, and withdrawal, 63078–63079

Applications, hearings, determinations, etc.:

Niagara Mohawk Power Corp. et al., 63074–63076

PSEG Nuclear LLC, 63076–63077

Occupational Safety and Health Administration**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 63069–63073

Office of United States Trade Representative*See* Trade Representative, Office of United States**Personnel Management Office****NOTICES**

Senior Executive Service:

Performance Review Board; membership, 63079

Presidential Documents**PROCLAMATIONS***Special observances:*

National Diabetes Month (Proc. 7507), 62907–62908

National Drunk and Drugged Driving Prevention Month (Proc. 7509), 62911–62912

National Hospice Month (Proc. 7508), 62909–62910

Public Health Service*See* Centers for Disease Control and Prevention*See* Food and Drug Administration*See* National Institutes of Health**Research and Special Programs Administration****PROPOSED RULES**

Hazardous materials:

Hazardous materials transportation—

Cargo tank motor vehicles; construction and maintenance requirements, 63095–63126

Securities and Exchange Commission**NOTICES**

Self-regulatory organizations; proposed rule changes:

American Stock Exchange LLC, 63080–63083

Chicago Board Options Exchange, Inc., 63083–63084

New York Stock Exchange, Inc., 63084–63087

Pacific Exchange, Inc., 63087–63088

Applications, hearings, determinations, etc.:

Public utility holding company filings, 63079–63080

Social Security Administration**NOTICES**

Meetings:

President's Commission to Strengthen Social Security, 63088

State Department**NOTICES**

Meetings:

Labor Diplomacy Advisory Committee, 63088–63089

Surface Mining Reclamation and Enforcement Office**RULES**

Permanent program and abandoned mine land reclamation plan submissions:
Utah, 62917–62935

Textile Agreements Implementation Committee

See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States**NOTICES**

Meetings:

Industry Sector Advisory Committees—
Small and Minority Business, 63089
World Trade Organization:
Brazil—
Consultations regarding antidumping duties by U.S. on silicon metal; correction, 63089

Transportation Department

See Coast Guard

See Federal Aviation Administration

See Maritime Administration

See National Highway Traffic Safety Administration

See Research and Special Programs Administration

Treasury Department

See Comptroller of the Currency

NOTICES

Agency information collection activities:
Submission for OMB review; comment request, 63091–63092

Separate Parts In This Issue**Part II**

Transportation Department, Research and Special Programs Administration, 63095–63126

Part III

Health and Human Services Department, Children and Families Administration, 63127–63147

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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